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The Solicitors' Journal

[REGISTERED AS A NEWSPAPER.]

VOL. LXXV. No. 1 [PAGES 1 TO 18]. Saturday, January 3, 1931. PRICE 1s.

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The Solicitors' Journal

(ESTABLISHED 1857.)

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VOL. LXXV **Saturday, January 3, 1931.** No. 1

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Current Topics.

The Road Traffic Act, 1930, and Third-party Risks.

A LONDON daily newspaper has given some timely warning as to the effect and scope of the provisions against third-party risks, the subject of ss. 35 to 44 of the Road Traffic Act, 1930. According to the writer of the warning, a policy put forward as one meeting the requirements of the Act was one insuring against "any accidental injury or damage to property." This is obviously wrong, for s. 36 (1) (*b*) requires insurance in respect of "the death of or bodily injury to any person caused by or arising out of the use of the vehicle on a road, excepting claims already covered by the Workmen's Compensation Acts, or of voluntary passengers, or where there is independent contractual liability." Thus, insurance against damage to property is not made compulsory, but only against damage to life or limb. This would cover the ordinary liability for negligence to anybody who was injured thereby, and, under Lord CAMPBELL'S Act, the Fatal Accidents Act, 1846, to the executors of anyone killed. It would perhaps not be unreasonable for the legislature to require compulsory insurance for damage to property, but it has not yet done so. The newspaper gives the sensible advice that insured parties should read their policies, and insist on the words "fatal or non-fatal" or "loss of life." Any words, however, would suffice if they clearly applied to injuries to persons, whether fatal or otherwise. The test of the proper insurance would of course be the legal liability in tort and under the 1846 Act, and damage held too remote would be excluded. Although persons who are not slaves may be said to have a kind of property in their bodies, damage to that kind of property would not be covered by an insurance against damage to property, and the body of a person unfortunately killed in an accident is not property at all.

The Benefices (Transfer of Rights of Patronage) Measure, 1930.

A RIGHT of patronage had an undoubted temporal value in the days of our grandfathers, and even of our fathers, and advowsons were bought, if not for "the fool of the family," at least for some member of it who was not likely to shine very brilliantly elsewhere. Parsons also would buy them, and, although they could not technically present themselves, they might offer themselves to the bishop of the Diocese to be admitted, and it was his duty to admit accordingly, see *Walsh* v. *Bishop of Lincoln* (1875) L.R. 10 C.P. 518, a case in which the plaintiff had paid no less than £3,000 for the limited right of presentation vested in the life tenant of an advowson under a settlement. That this kind of traffic did not enure to the benefit of parishioners or congregations became sufficiently obvious a long time ago, and the Church has now been engaged in the task of reform for nearly forty years. The first step was the Benefices Act, 1898, to cure the grosser abuses, and forbidding sales by auctions of rights of patronage. Then came the Benefices Act, 1898 (Amendment) Measure, 1923, forbidding the patron either to present himself, or, if a lady, her spouse, and repealing the Clergy Resignation Bonds Act, 1828, whereby incumbents were made to resign when the patron's chosen nominee had ripened for his office. There has now been added the Benefices (Transfer of Rights of Patronage) Measure. This Measure requires the patron who wishes to transfer his right to notify his intention to the Bishop, together with the name of the proposed transferee and other particulars, and the Bishop must then give notice to the churchwardens and the secretary of the parochial church council. Since there is no machinery in the Measure itself to enforce any objection to a transfer, either on the part of the churchwardens or the council, its sole object is publicity. It will at least prevent patrons secretly transferring their rights to unsuitable people, or, after the conferences required by the Measure, feigning to believe that an unpopular transferee is a *persona grata* to the parish. The possible right of the parish to reject a presentee to the living is the subject of another proposed measure, on which we have elsewhere commented. The general effect of the above legislation is to checkmate the Rev. SIMON MAGUS in his plans for buying himself a rich sinecure, and the relatives of young JIM CRAWLEY, seeking to dump that sporting youth into a position for which he is entirely unfitted.

Mistake or Frustration?

With reference to "The Lever Case," 74 SOL. J. 819, LORD JUSTICE SCRUTTON enunciated the rule of law applicable in terms which leave no room for doubt in cases of this kind. He said: "The present law is, that where, at the time of making the contract, the circumstances were such that the continuance of a particular state of things was, in the contemplation of both parties, fundamental to the continued validity of the contract, and that state of things substantially ceases to exist, the contract became void from the time of the cessation." The contracts of March, 1929, were therefore void and the moneys paid under them were recoverable. It is true that none of the well-known cases on mistake, such as *Cundy* v. *Lindsay*, 3 A.C. 459; *Couturier* v. *Hastie*, 5 H.L.C. 673; *Smith* v. *Hughes*, L.R. 6 Q.B. 597, and *Webster* v. *Cecil*, 30 Beav. 62, seem to cover the facts of the *Lever Case*, and Lord Justice

SCRUTTON was driven to cite the well-known *Coronation Cases* and the cases on commercial frustration (e.g., *Bank Line* v. *Capel* [1919] A.C. 435, and *Metropolitan Water Board* v. *Dick, Kerr & Co.* [1918] A.C. 119), in order to find parallels. These cases are not exactly analogous, for the fundamental change in circumstances rendering the contracts void occurred after the making of the contracts, while in the *Lever Case* the position was that the parties were under a mutual mistake as to the existence of the basis of the contract. The *Lever Case* bore a greater resemblance to the case of *Couturier* v. *Hastie*, 5 H.L.C. 673, in which a cargo of corn was sold which both parties assumed at the time of the sale was on its way to England, but which had actually at that time been sold at Tunis for what it could fetch as it was in danger of serious deterioration through the heat. The express basis of that contract had, to use the exact words of the court, "ceased to exist," and in the *Lever Case* it might have been said that the implied basis of the contract was non-existent. Both Lords Justices LAWRENCE and GREER based their judgments on this form of reasoning and held that the case "fell within that general class where the subject-matter of a contract had been held to be non-existent." Lord Justice SCRUTTON further held that the rule requiring full disclosure of all material facts to be made in certain contracts applied to the contracts under consideration and that as such disclosure had not been made the contracts were void on that account also. The learned lord justice reserved to himself the right to reconsider in any future case the rule laid down by Mr. Justice AVORY in *Healey* v. *Société Anonyme Francaise le Rubastic* [1917] 1 K.B. 947, that he could not accept the view that "the omission to confess or disclose his own misdoing" was in itself a breach of contract. It should be added that the application of the doctrine of *uberrima fides* to contracts between principals and agents is by no means new, and is supported (*inter alia*) by Halsbury's "Laws of England," Vol. I, p. 189, para. 404 (and see the cases cited under notes (*h*), (*i*) and (*j*)).

"Instead of the Insured Car."

AN INTERESTING and novel point on the construction of a motor car insurance policy against third-party claims arose in *Rogerson* v. *Scottish Automobile and General Insurance Company Limited*, on appeal (*The Times*, 13th November) from the judgment of Mr. Justice ROCHE, delivered on 16th July, 1930, which we noted in our issue of 16th August last (74 SOL. J. 540). The plaintiff claimed under a policy dated 23rd May, 1928, and renewed from time to time, in respect of an accident which occurred on 28th July, 1929, and which resulted in personal injuries to a third party. At the time of the accident the plaintiff was not using the Lancia car originally insured, but a new Lancia car, of similar power, which he had bought in substitution for the old one. The policy covered "the legal liability of the assured in respect of the use by the assured of any motor car (other than a hired car) provided that such car is at the time of the accident being used instead of the insured car." The question was whether the new car was being used "instead" of the car originally insured within the terms of the policy, and it was argued on behalf of the defendants that the provision in the policy allowing the use of a car instead of the insured car could only be co-extensive with the insurance of the insured car, and when the insured car was sold the insurance covering the substituted car would automatically cease. Mr. Justice ROCHE rejected this contention and found that the new car was being used at the time of the accident "instead of" the old, and held that the plaintiff was entitled to succeed. The learned judge expressed the view, however, that had the car been an entirely different type from the insured car, for example, if the old car had been an Austin Seven and the new car a Rolls Royce, the plaintiff might not have been entitled to succeed. Lord Justice SCRUTTON said that the parties to the policy could not have intended to have departed from the cardinal principle of insurance law that a person cannot recover for a loss in respect of a subject-matter in which he no longer had any insurable interest. The insured person had sold the insured car at the time of the accident, and he therefore ceased to have an interest in it and could not expect to recover for loss or damage against the company. There are, in point of fact, no great practical difficulties in the way of taking out a fresh policy on the purchase of a new car, and the decision in *Rogerson's Case* will not deter the car owner from selling his old car and buying a new one.

The Benefices (Exercise of the Rights of Presentation) Measure.

NO ONE would suggest that Lord ATKIN would take a captious objection to proposed legislation, and his criticism of the above measure, printed in *The Times* of 17th December, and the answers to it in the next successive numbers, by the DEAN OF WESTMINSTER and Lord WOLMER, deserve serious consideration. The Measure is in fact framed to give a congregation some limited power of veto on the appointment by the patron of their church of an incumbent whom they deem unsuitable for them. Whether they are the wisest judges of their spiritual needs is a polemical question which, happily, is outside our province. No doubt the shepherd so chosen by his sheep might "talk of the sins of the world, and not of the sins of the squire"—or of the leading deacon, as the case might be. Under the present system, however, it is certainly true that a square peg of pronounced angularity may be firmly placed in an accurately circular cavity, with resulting discomfort to all parties. The Measure seeks to obviate this possibility on the initiation of a parochial church council, which may set the churchwardens to confer with the patron, and, if they cannot agree to the proposed presentee, to withhold their consent to his appointment. The Bishop, after consulting the body of advisers established by the Measure, may or may not vouchsafe his approval, but, if he declines to do so, the patron may appeal to the Archbishop. If he in turn declines to approve, the patron will then have no option but to make some other choice. Lord ATKIN'S main objections appear to be (1) That the rights of the clergy will be infringed; (2) That the refusal may be made without any definite accusation, and without an opportunity for the victim of it publicly to refute and disprove any untrue statements made or rumours spread about him; and (3) Any such refusal will, so to speak, constitute a "mark" against a particular clergyman, and tend to debar him from merited promotion. The difficulty, in the words of Lord WOLMER, is "how to give parishioners a voice in the matter, without destroying private patronage, and without causing injury to blameless clergy." The difficulty of dealing with vested interests which have outlived their utility is, of course, one very familiar to our Legislature. The patron's free right of choice was curtailed by the Benefices Act, 1898, s. 2, which also debarred the rights of certain clergymen who might otherwise have been presentees, and the Measure appears to check the right of patrons to present persons wholly unacceptable to their proposed congregations. There are plenty of instances where the wrong man has been thrust on a parish, with the consequence of an almost empty church during service, which can hardly be a desirable state of things from any churchman's point of view. And as to rejection, the refusal of those who live in the round hole to accept the square peg should be no indication that he would not be a perfect fit elsewhere. Mr. COMPTON MACKENZIE, in a recent novel, has painted a dismal picture of a zealous and devout High Churchman taking a small parish in Cornwall, with the result that the congregation was set by the ears and the incumbent turned to Rome, a double loss to the Church. If, as appears likely, the Measure will prevent such mishaps in future, such useful work will more than counterbalance the drawbacks to which Lord ATKIN calls attention.

New Laws.

Of the statutes coming into force in 1931, no doubt the Road Traffic Act, 1930, is the most important, though certain sections of it are already in operation by virtue of the Minister of Transport's appointments under s. 123 (2), giving him power in the usual way to fix the times of commencement. Sir Henry Theobald has, indeed, observed in a letter to *The Times* that the Minister of Transport's appointment under an Act which is not yet operative produces an apparent deadlock. The point, however, so far as it is a practical one, appears to be met by s. 37 of the Interpretation Act, 1889: "When an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof and confers power to make any appointment or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act," etc. Possibly, however, to prevent any misconception, it would be better hereafter to except sections of this kind from their own postponing operation. And it would also have been better if the Minister had brought s. 123 into operation on the date of his first appointment, 12th November, which purported to bring certain other sections into force.

The Act was mainly brought into operation on 1st December, but, of the postponed sections coming into force on 1st January, no doubt s. 10 is the most important, for, in conjunction with the first schedule, it abolishes the former statutory speed limit for ordinary private cars. The practical effect, it is true, will not be great, because the speed-limit has for years been universally disregarded; but the law will be brought into harmony with the custom of the people, and that is of the first importance. For other self-propelled vehicles, speed-limits of from thirty to three miles an hour are prescribed, and it may be hoped that they will be observed and enforced. Section 17, which also comes into force on 1st January, prescribes requirements as to drivers and attendants for heavy locomotives and light locomotives, defined in s. 2, and their trailers. A number of sections, in Pt. IV, dealing with the regulation of public service vehicles, also come into operation, and others of Pt. V, to deal with the running of public service vehicles by local authorities. For practical purposes, in fact, the Act is in force, the few remaining sections still dormant not being necessary for its earlier working. The wide power conferred on the Minister by s. 46 (1) should especially be noted. As possible examples of its use, he might forbid vehicles drawn by animals on any main road, either wholly or at particular times, or even—a long step forward—forbid vehicles other than public service vehicles into and out of places like the City of London during the rush hours, so that the maximum of people could be carried into or out of it as the case might be with the maximum of speed.

The other Acts are less important, but some of them mark substantial reforms. The Mental Treatment Act, 1930, for example (20 Geo. V, c. 23), provides for voluntary submission to treatment for the affliction which assuredly is better called "mental illness" than lunacy, just as it is kinder to refer to "rate-aided persons" than paupers—and, it may be added, it would be kinder to substitute "illegitimacy," or even a milder word, in place of "bastardy" whenever that occurs to our legislators. Provision is also made for temporary treatment without certification in the case of anyone likely to benefit, but "incapable of expressing himself as willing or unwilling to receive such treatment." Local authorities have powers and duties under the Act, and a Board of Control is set up. There are a few sections in amendment of the Lunacy Act, 1890, and the Mental Deficiency Act, 1913, and some of these are already in force, e.g., ss. 15 (2), 16, 18 and 19. The principal provisions, however, are timed for 1st January, 1931.

It may perhaps be regarded as strange, when the relaxation of the Sunday Observance Act of 1781 in order to permit of cinemas being lawfully opened on that day is being so generally discussed, that the scope of the earlier Act of 1677, against carrying on business on Sundays, is being somewhat enlarged. This, however, is virtually the effect of the Hair Dressers' and Barbers' Shops (Sunday Closing) Act, 1930 (c. 33), with an exception for persons of the Jewish religion, who may open on Sunday if they close on Saturday. In *Palmer* v. *Snow* [1900] 1 Q.B. 725, it was held that a barber was not within the Act of Charles II, though it had been held by the House of Lords in *Phillips* v. *Innes* (1837), 4 Cl. & F. 234, that he was within the slightly different wording of the corresponding Scottish Act. The new statute will therefore operate to bring Christian barbers within the prohibitions of the 1677 Act. Since the habit of being shaved on Sundays is probably far more general than on Saturday or any other week-day, the alteration in the law may give a decided advantage to Jewish barbers, a probability which no doubt the Legislature must have anticipated. It may be interesting to recall the opinions of Channell and Bucknill, JJ., in *Palmer* v. *Snow*, *supra*, that, in the days of Charles II, a barber was too important a person for such a prohibition to be imposed on him.

The Poor Prisoners' Defence Act, 1930 (c. 32), also coming into force on 1st January, repeals the previous Act of 1903, and re-enacts and enlarges it. By the 1903 Act legal aid could be provided for a prisoner on trial, but the new Act prescribes that, where circumstances warrant, magistrates may certify for such aid in respect of the preliminary proceedings before themselves. In such preliminary proceedings the certificate will cover the services of a solicitor and, if the charge is of murder and the magistrates think fit, counsel to defend the prisoner. The question whether a coroner can so certify will depend on whether his is "a court of summary jurisdiction" within s. 2, as defined in the Interpretation Act, 1889, s. 13 (11), and *prima facie* it would appear that he cannot do so, for, although he may be regarded as a magistrate, see *Davies* v. *Pembrokeshire JJ.* (1881), 7 Q.B.D. 513, his jurisdiction is not given to him under the Summary Jurisdiction Acts. It may also be observed that, technically, no person is charged with murder on a coroner's inquest, though the jury may bring in the verdict of murder against a particular person.

The last Act passed at the end of the summer session, the Reservoirs (Safety Provisions) Act, 1930 (c. 51), also comes into force on 1st January, and imposes extra precautions on proprietors of water undertakings constructing "large reservoirs" as defined by the Act. It will no doubt be carefully noted by the advisers of water companies and local authorities who supply water to their districts that s. 7 expressly excludes the doctrine of statutory protection in case of reservoirs henceforth constructed, and the undertakers will be responsible for any damage caused by leakage, bursting, etc. Thus it will no longer be possible to quote such cases as *Hammersmith Railway Co.* v. *Brand* (1869), L.R.4 H.L. 171, in defence of a company or authority sued for such damage, and the ordinary doctrine of *Rylands* v. *Fletcher* (1868), 3 H.L. 330, will apply.

Another Act which may or may not come into operation this year is the Easter Act, 1928 (c. 35), providing for a fixed Easter, for its commencement may be fixed by Order in Council. It cannot, however, affect this year's calendar, for it takes effect on the calendar for the year next but one after such commencement.

Mr. Archibald H. Yeatman, solicitor of Western-road, Branksome-park, Bournemouth, and Poole, who was drowned, left estate of the gross value of £52,083, with net personalty £40,282. He left (*inter alia*):—£1,000 to his clerk, John Vincent Rowell, "for devoted and faithful service"; 400 guineas each to the Royal Masonic Benevolent Institution, the Royal Masonic Institution for Girls, and the Royal Masonic Institution for Boys; £1,000 to the Cornelia Hospital at Poole.

The "Transitional Conditions" in the Unemployment Insurance Act.

[CONTRIBUTED.]

ONE of the chief problems which will have to be faced by the Royal Commission on Unemployment Insurance is that with regard to those persons who, although not within the contributory insurance scheme proper by reason of their not having paid the requisite number of contributions, are nevertheless entitled to the benefit under the "Transitional Conditions."

The importance of this question appears from the fact that there are at the present time about 400,000 of such persons who draw the benefit without being entitled on a contributory basis, and that the cost to the Exchequer is about £22,000,000 a year. That cost is borne by the Treasury not by the Unemployed Insurance Fund, and is not reckoned part of the debt of that fund. It is, in fact, an annual contribution for the relief of those not qualified under the insurance scheme, a contribution which, even on paper, is not repayable.

It is thought, therefore, that it will be of some interest to show briefly how this state of things has arisen and what the transitional conditions are.

Before the passing of the Unemployment Insurance Act, 1927, there were three classes of benefit, namely "Standard benefit," "Extended benefit," and "Dependants' benefit." The "Standard benefit" was that which was payable upon a strictly contributory basis, the insured contributor being entitled to a week's benefit for every six contributions paid but not more than twenty-six weeks in any year. The "Extended benefit" was payable to persons who, due to the depression in trade, were not qualified for "Standard benefit." With "Dependants' benefit" (i.e., benefit payable in respect of a dependant wife, child, etc.) we are not concerned in this article.

By the Act of 1927 a considerable alteration was made in the scheme. That Act, which was based upon the report of the Blanesburgh Committee, abolished the system of payment of benefit in proportion to the number of contributions made. In place of the two classes of benefit already mentioned the Act provided for one kind of benefit only, which was payable, not in proportion to the amount of contributions paid, but to all persons who had made thirty contributions within the two years preceding the date of claim, and the limit of twenty-six weeks' benefit in a year was abolished.

In order to tide over the period considered necessary for the change effected by the Act to operate without undue hardship to those who had not paid thirty contributions during the preceding two years but who would have been qualified for benefit before the Act, transitional conditions were provided. These conditions were, in the first place, to be in force for twelve months after the passing of the Act, but the period has been extended until the 19th April, 1931.

Until that date, therefore, a claimant who has not paid thirty contributions within the two years preceding the date of his claim is entitled to benefit if he satisfies the transitional conditions, which are as follows:—

> "(1) That not less than eight contributions have been paid in respect of him as an insured contributor during the two years preceding his application for benefit, or that not less than thirty contributions have at any time been paid in respect of him; and
>
> (2) That he is normally employed in insurable employment and that he will normally seek to obtain his livelihood by means of insurable employment.

It will be manifest that even assuming the minimum number of contributions required to provide the necessary funds to maintain the insurance upon a proper contributory basis to be thirty, paid within the two years preceding application for benefit, the Unemployment Insurance Fund could not bear the extra burden thrown upon it by these so-called "transitional" provisions. Of course, as we know, even without that additional burden the Fund is hopelessly insolvent, the "thirty contributions in two years" basis being wholly indefensible from an actuarial point of view. The additional burden of the cost resulting from the transitional conditions was, however, provided by a special grant from the Exchequer, so that the debt of the fund has not been increased thereby.

Looking at the transitional conditions themselves, it is obvious that there must be, as indeed there has been, great difficulty in adjudicating upon claims to benefit under them.

The statutory authorities to decide upon doubtful claims, namely, the Courts of Referees (and the Umpire where an appeal lies to him) have by no means an easy task in applying the conditions.

For example, it is, strictly speaking, not possible to say that at any given time a man "is normally employed" in any occupation. He may have been, over a period, normally employed in some trade or occupation, but he cannot, one would think, be properly said to "be normally employed." Again, it often happens that a man who has usually sought to earn his living in insurable employment has been forced through lack of work to take any employment that was offered. In such cases it is, we suppose, a question of intention whether he has changed his normal or usual occupation or not. And even assuming that question to be decided in an applicant's favour, there remains what is probably a still more difficult problem, namely, will he normally seek insurable employment in the future? It seems hopeless to expect that with such questions to be decided there can be real uniformity in the application of the transitional conditions. No doubt rules have been laid down which are generally applied, but there must be much uncertainty in many cases.

Broadly speaking, there are three classes of persons who are benefited by the conditions. First, those who have in the past been regularly employed, but owing to the economic depression and advancing years have not recently been contributors to the fund except intermittently; secondly, those who are not old enough to have been long within the scheme and have consequently not paid many contributions, but will probably resume payment and continue in insurable employment with a revival of trade; and thirdly, that class which is constantly for one cause or another being thrown out of work and never likely to be in regular employment.

All such persons may now benefit by reason of the transitional conditions, and their number is rapidly increasing. It will be for the Commission to endeavour to find some more satisfactory method of dealing with them.

Company Law and Practice.

LVIII.

FORFEITURE OF SHARES.—II.

LAST week we saw that a forfeiture other than in respect of calls on shares is bad; we may now well examine the position of a company which has carried out a forfeiture, with regard to the calls which are yet unpaid on the forfeited shares. A shareholder is in arrear with his calls, and a forfeiture is carried out in a valid way, all the formalities being complied with; the company is still, after the forfeiture, without the moneys due for the calls which gave rise to the forfeiture, what can it now do to recover those moneys?

Table A provides (by Art. 27) that a person whose shares are forfeited shall cease to be a member in respect of the forfeited shares, but shall remain liable for all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares. His liability, however, is to cease if and when the company receives payment in full of the nominal amount of the shares.

When a forfeited share is sold, or re-issued, in accordance with a provision in that behalf contained in the articles, the person in whom such share is vested must take it subject to its liabilities, that is to say, to calls up to the amount which remains unpaid thereon at the date of forfeiture, including, of course, the call the non-payment of which occasioned the forfeiture. In cases to which Table A applies, however, it will be seen, from Art. 27 above, that the person who incurred the forfeiture is still liable in respect of the call which actually proved fatal to his retention of the share.

Thus, the new allottee or purchaser of a forfeited share is liable in the usual way as a member of the company in respect of all moneys unpaid on the share, but the person who incurred the forfeiture is still liable (under Table A) to the call made before forfeiture and unpaid by him; the result of this is that there is a double liability for this call. But, as one would expect, the company cannot make a profit out of this company actually receiving this call twice; any payment made by the new member in respect of it will enure for the benefit of the old member, and *vice versâ*.

Two cases may be referred to as authorities for this proposition: *Re Randt Gold Mining Co.* [1904] 2 Ch. 468, and *Re Bolton, ex parte North British Artificial Silk Limited* [1930] 2 Ch. 48. The *Randt Case* may be dealt with fairly shortly. There was, in that case, a forfeiture carried out by the Randt Company of 5s. shares upon which 3s. 4d. had been paid, such forfeiture being brought about by non-payment of a call of 1s. 8d. The shares were sold by the Randt Company, and a call of 1s. 3d. was made on the new owners. This call was in effect not a new call, but merely a proportion of the call of 1s. 8d. previously made on the old owners; it was held (in *New Balkis Eersteling Limited* v. *Randt Gold Mining Co. Limited* [1904] A.C. 165) that the new owners were liable to pay this call of 1s. 3d. per share.

The old owners being still liable under the articles in respect of calls made before forfeiture, 5d. per share was recovered from them, the result of this being that 5s. per share had actually been paid to the Randt Company. Its liquidator, however, attempted to get another 5d. per share out of the new owners, the main ground of his argument being that the amount payable by the old owners was paid not as a liability incident to membership (for they had ceased to be members) but under the separate contract contained in the articles that a person whose shares were forfeited should remain liable to pay all calls owing on such shares at the time of forfeiture. BUCKLEY, J., held that the liquidator could not recover the further 5d., saying that, in his opinion, it was immaterial that the old owners paid, not as members, but under a separate contract, the material question being what was the character of the payment made, and that the 5d. per share recovered from the old members was in respect of the 5s. payable upon the share. Thus the Randt Company, had it recovered from the new owners, would have received 5s. 5d. per share, which would clearly have been wrong.

The converse of this decision is to be found in *Re Bolton, supra*. Here there was a forfeiture, and a re-allotment, with a loss to the company consequent upon the commission paid by them to obtain the new allottees. The person who had incurred the forfeiture was adjudicated bankrupt, and the company lodged a proof against his estate in respect of the calls due on the forfeited shares at the date of forfeiture, and in respect of the calls on certain other shares, less the amount paid by him, but with the addition of interest to the date of the receiving order. This proof was subsequently amended, by leave, to one for calls due in respect of the forfeited shares only, together with interest from the respective dates when the amounts fell due, down to the date of forfeiture, and containing a proviso that the company should not receive by way of dividend more than the amount of its actual loss—that is, the difference between the sum due in respect of the forfeited shares at the date of forfeiture and the sum actually received—together with the amount of the interest claimed by the amended proof.

LUXMOORE, J., after referring to the *Randt Case, supra*, held that the same principle must govern the converse case, and that the proof must be limited to the actual loss sustained by the company. Looking at this case without the complication introduced by the bankruptcy of the person who incurred the forfeiture, it seems perfectly plain that such person, if solvent, could not have been compelled to pay more than the loss which the company sustained, with interest thereon: and it would therefore appear to follow, without any difficulty, that the proof should be limited to such an amount.

(To be continued.)

A Conveyancer's Diary.

Improvements under the S.L.A., 1925.

The retrospective operation of the provisions of the S.L.A., 1925, regarding improvements made by the tenant for life and the manner in which the court will exercise its discretion in ordering recoupment out of capital was considered in *Re Jacques Settled Estates* [1930] 2 Ch. 418.

The facts in that case were that the plaintiff was the tenant for life of certain estates in Yorkshire. Before 1919, the manor house and adjoining cottages were lit by oil lamps. In that year the plaintiff incurred considerable expense, which he paid out of his own money, in the installation of a plant for generating and supplying the manor house and cottages with electric light. The plaintiff applied to the court to authorise the trustees of the settlement to recoup the cost so incurred by him, the amount to be repaid to the trustees by instalments out of the income of the settled land.

Eve, J., held that the improvement being one that would have had to be made sooner or later, the order asked for should be made, repayment being made by twenty half-yearly instalments, whereof the first must be regarded as having fallen due on 30th June, 1926.

In the first place it may be said with regard to this case that it was admitted that at the time when the expenditure on the electric light installation was incurred there was no power in the court to authorise payment therefor to be made out of capital money, and further that the tenant for life did not then contemplate any possibility of recoupment on any terms whatsoever. In fact the tenant for life had the improvement made at his own cost and presumably for his own benefit, although no doubt the installation also benefited the estate to the advantage of the remainderman.

In those circumstances no question of recoupment arose before 1926 so far as regards that particular kind of improvement.

The application was, however, made under s. 84 of the S.L.A., 1925, the improvements being within those enumerated in Part III of the Third Schedule to the Act.

If the improvements had been made since the commencement of the S.L.A., 1925, there could have been no question about the jurisdiction of the court to exercise its discretion by ordering payment to be made out of capital and directing the capital to be recouped by instalments out of income. It has, however, been held, in a case to which I will refer presently, that the provisions of the 1925 Act are retrospective in that they apply to improvements of the kind authorised by that Act, although made before the Act came into force.

The case in point is *Re Lord Sherborne's Settled Estate* [1929] 1 Ch. 345.

That also was a case where the tenant for life had expended a large sum of money in various repairs and improvements, including the installation of electric light in the mansion-house. Many of the improvements were carried out before 1925,

and were not "authorised improvements" under the Settled Land Acts, 1882 to 1890. At the time that the work was done the tenant for life had no expectation of being recouped out of capital.

Tomlin, J., held that notwithstanding the fact that the works were executed before the commencement of the S.L.A., 1925, there was under that Act jurisdiction in the court, if it thought fit, to order repayment of the sums expended thereon to the tenant for life out of capital moneys; and consequently, as the items in question were "authorised improvements" under the S.L.A., 1925, they could be repayable out of capital, although incurred on works executed before 1926. The learned judge, however, decided that, having regard to the fact that some of the works had been carried out several years previously, there must be a rebate to allow for a diminished value.

In the course of an elaborate judgment the learned judge dealt with the pertinent sections of the Act which, I think, may be stated briefly as follows.

Section 83 defines improvements authorised by the Act as being works set out in the Third Schedule and works incidental thereto.

Section 84 is the section which provides for the payment for authorised improvements out of capital money. Sub-s. (1) enables capital money to be so applied without any scheme for the execution of the improvements having first been submitted for approval of the trustees of the settlement or the court. Sub-s. (2) provides that capital money may be applied by the trustees in payment for any work comprised in the improvement on (i) a certificate of a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work has been properly done and what amount is properly payable in respect thereof; or (ii) an order of court. Then there are two important provisos: (*a*) that in the case of improvements not authorised by Part I of the Third Schedule the trustees may, and, if directed by the court shall, require the money or any part thereof to be repaid out of income by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the completion of the work; and (*b*) that no capital money shall be applied for improvements not authorised by Parts I and II of the Third Schedule or by the settlement, except subject to provision for the repayment by instalments as mentioned in proviso (*a*).

By sub-s. (4) it is enacted that where the court authorises the payment out of capital money the court may as to improvements not authorised by Part I of the Third Schedule and shall, as to those authorised by Part III (unless the improvement is authorised by the settlement) require that the whole of the capital money shall be repaid out of income by instalments to be paid at times fixed by the court.

The section is rather complicated, unnecessarily so I think, but I have endeavoured to indicate its main provisions.

Turning now to the Third Schedule, it will be seen that there are three parts. Part I sets out "Improvements the costs of which are not liable to be replaced by instalments"; Part II comprises "Improvements the costs of which the trustees of the settlement or the court may require to be replaced by Instalments"; and Part III shows the "Improvements the costs of which the trustees of the settlement and the court must require to be replaced by instalments."

In *Re Jacques* and also in *Re Sherborne*, the court was concerned with improvements coming within Part III.

If in those cases the improvements had been made since 1925 the matter would seem to have been plain enough, but that was not so; and for the retrospective operation of the Act in this respect it is necessary to refer to s. 87, which reads as follows:—

> "The court may, in any case where it appears proper, make an order directing or authorising capital money to be applied in or towards payment for any improvement authorised by the Settled Land Acts, 1882 to 1890, or this Act, notwithstanding that a scheme was not, before the execution of the improvement, submitted for approval, as required by the Settled Land Act, 1882, to the trustees of the settlement . . . and notwithstanding that no capital money is immediately available for the purpose."

Now, in neither of the cases referred to were the improvements (about which any question arose) such as were authorised by the Acts of 1882 to 1890, and it was argued in the *Sherborne Case* that the expression "authorised by . . . this Act," means "executed under the authority of this Act," and that consequently improvements executed before 1926 were not within the section. That construction was, however, rejected, and it was held that "authorised . . . by this Act" meant "of a kind authorised . . . by this Act," whenever executed.

That construction was adopted in *Re Jacques*, where also the improvements were not such as were authorised to be paid for out of capital under the earlier Acts.

There is a rather curious point arising in these cases regarding improvements coming within Part III of the Third Schedule to which I may call attention.

Under s. 84, proviso (*a*), the court has power to direct the trustees to require payment by not more than fifty instalments, the first to be paid or deemed to have become payable at the expiration of six months from the date when the work was completed, whereas under sub-s. 4 of the same section the court has power to fix any number of instalments, to commence at any time.

In *Re Sherborne* the court directed the repayment to be by fifteen half-yearly instalments, the first to be payable on the 1st January, 1929, which was six months after the date of the order. In *Re Jacques* the repayment was directed to be made by twenty half-yearly payments, but instead of directing the first instalment to be paid six months after the date of the order, the learned judge ordered that the first instalment should be regarded as payable on the 30th June, 1926, on the ground that the application should be regarded as though it had been made immediately after the coming into force of the Act of 1925.

Of course, the later the date fixed for the payment of the first instalment, the better for the tenant for life.

Another interesting point is that in neither of the cases is there any reference to the age of the tenant for life. I suppose that that must have been taken into account, but nothing is said about it in the reports.

Landlord and Tenant Notebook.

Rectification.

Rectification is a remedy which parties would at one time hesitate to seek unless in the possession of overwhelming evidence to support their cases. The common law rule excluding parol evidence which would vary or contradict a written document was a formidable obstacle in the way of a plaintiff who alleged that his lease did not correspond with what was verbally agreed. This rule was applied at the commencement of this century in a case concerning the sale of freehold: *May* v. *Platt* [1900] 1 Ch. 616, in which the vendor, who was sued on the covenant for title, counter-claimed for rectification. Farwell, J., refused to admit parol evidence, the reasoning being that if he did and acted on it he would virtually be granting a decree of specific performance of an oral agreement. This reasoning was criticised by Neville, J., in *Thompson* v. *Hickman* [1907] 1 Ch. 550, the learned judge saying that a remedy designed to relieve against the inflexibility of the common law necessarily involved a contravention of its rules; but he considered the decision binding upon him. But in *Craddock Bros.* v. *Hunt* [1922] 2 Ch. 809, P. O. Lawrence, J.,

declined to follow *May* v. *Platt*, and his ruling was upheld by a majority in the Court of Appeal: [1923] 2 Ch. 136; C.A. Lord Sterndale, M.R., reviewed the above and older decisions and held that, having regard to the true effect of rectification, i.e., making the document read as it was intended to read, oral evidence was admissible. The older cases to the contrary, as was pointed out, were all decided before the Judicature Act, 1873, and the attention of the judges in the two more recent cases was not drawn to s. 24 (7) of that statute (see now the S.C.J. (Consolidation) Act, 1925, s. 43). The decision was approved by the Privy Council in *U.S.A.* v. *Motor Trucks Ltd.* [1924] A.C. 196, a commercial case.

The above applies to cases of common mistake. It would seem that if the mistake be unilateral, rectification can only be granted if the other party induced it; but that if there be evidence of fraud, or at all events of something in the nature of bad faith on the defendant's part, the latter may be compelled to elect between rescission or acceptance of what the plaintiff had intended. Apart from this, there is no remedy. In *Tamplin* v. *James* (1880), 15 Ch. 215; C.A., the defendant in an action for specific performance, who had relied on his knowledge of the property when entering into the contract, and had not taken the trouble to refer to particulars and maps from which he would have seen that the gardens were not included, was unable to resist a decree. He did not, in fact, counter-claim for rectification or rescission. But in *Paget* v. *Marshall* (1884), 28 Ch., the lease and the correspondence both gave the defendant-tenant an upper part, including the first floor; the plaintiff alleged that the first floor had been included by inadvertence, and that the defendant had taken advantage of the inadvertence. The plaintiff's claim, which was for rectification or rescission, was supported by evidence of conversations and of the nature and value of the premises. It was found that there was no common mistake, but the defendant admitted that he had at one time known that the plaintiff never intended to let the first floor. Bacon, V.-C., said, however, in his judgment, that there was "to some extent" a common mistake, in that the defendant did not intend to take advantage of an incorrect expression in a letter, and made an order giving an option of rescinding the lease or striking out the first floor from the parcels. Commenting on this case in *May* v. *Platt*, *supra*, Farwell, J., said that such an order could only be supported on the ground of fraud. But in the absence of fraud it would certainly seem that a document may be rectified on the ground of unilateral mistake if it can be shown that the other party in any way "induced" the mistake; support for this proposition can at all events be found outside the law of landlord and tenant: *Wilding* v. *Sanderson* [1897] 2 Ch. 534; *Faraday* v. *Tamworth Union* (1916), 86 L.J., Ch. 436.

Another decision in which older authority was adversely criticised was *Beale* v. *Kyte* [1907] 1 Ch. 564, in which a mistake due to a blunder on the part of a solicitor's clerk was rectified six years after completion. Neville, J., ruled that delay should be measured from when the error was discovered, and considered that the report of *Bloomer* v. *Spittle* (1872), L.R. 13, 427, in which four years after execution appears to have been held to be too long, was wholly unintelligible and contained a mistake. From which one can deduce that law reporters, like solicitors' clerks and like others connected with the profession, are essentially human.

The application of the remedy in a case in which the "*falsa demonstratio*" doctrine was of no avail was illustrated in *Cowen* v. *Truefitt Ld.* [1899] 2 Ch. 309, in which the plaintiff's lease gave her rooms on the second floor of 13 and 14, Old Bond-street, with access "through the staircase of No. 13." The only staircase was in No. 14. As by rejecting the words "No. 13" the description would be left inadequate, the court rectified the lease, on the ground of common mistake, by substituting "14" for "13."

Our County Court Letter.

NEIGHBOURS AS CAUSE FOR RESCISSION OF TENANCY.

THE rare event of a claim by a tenant, on the ground that adjoining occupiers had been guilty of conduct which was a nuisance or annoyance (the converse of a case under the Rent Acts) occurred recently at Birmingham County Court. In *Moss* v. *Heaven and Another*, the plaintiff claimed damages and rescission of an agreement for a three years' tenancy of a house, owing to fraudulent misrepresentation as to the character of the neighbours. The plaintiff's case was that, having a wife and five young children, he had only taken the house on the assurance of the estate agent (the first defendant) that the neighbours on one side were "very nice," while those on the other side were "somewhat religious but quite decent people." The last-named lived in a house not owned by the second defendant, who was merely joined as owner of the plaintiff's house, thus being the principal of the first defendant. The plaintiff's case was that he had been compelled to leave after three months, as his family were frightened by the screams and banging of doors next door, which continued until 2 a.m., and made life intolerable. The defence denied the right to rescission, as the misrepresentations (if any) were innocent, and completion had taken place before there were any complaints, upon receipt of which the first defendant (who also acted for the owner of the adjoining house) had given the objectionable tenants notice to quit. It was further contended that the plaintiff, on being told that one neighbour was a religious crank, had replied that he was used to eccentric people. His Honour Judge Dyer, K.C. (in a reserved judgment), accepted the evidence for the plaintiff, and gave judgment against both defendants for rescission and damages, viz., £33 11s. 6d., but on this amount being brought into court within seven days, a stay of execution was granted for twenty-one days.

THE CONTRACT OF AGISTMENT.—II.

(*Continued from* 74 SOL. J. *p.* 213.)

IN *Hamer* v. *Knill*, recently heard at Presteign County Court, the plaintiff claimed £26 as rent for grass keep from the 11th May, 1929, to the 25th March, 1930, and the defendant (having paid the above sum into court) counter-claimed £62 18s. for the value of three sheep, a bullock and a cow, and for the cost of medicines and extra labour incurred through the plaintiff's negligence. The defendant's case was that he took the field on condition that the plaintiff would supply a competent stockman to look after the cattle, but (*a*) the latter were turned into a field among some oak trees, with the result that they contracted acorn poisoning; (*b*) the man failed to cleanse the sheep, which became maggotty. The submission for the plaintiff was that, as an auctioneer, he was not liable on the counter-claim, as the owner of the field was the person to provide the stockman. It was held, however, that there was a case to answer on the question of fact, and the plaintiff's evidence was that it was announced, at the grass letting, that he was acting on behalf of the owner. The defendant had been interviewed about some rent in November, but had made no complaint until December, when he suggested that the owner of the land should make him an allowance for three sheep, no mention being made of the cattle. The contention for the plaintiff was that, if the cattle gorged themselves with acorns, it was not the stockman's duty to inform the owner. His Honour Deputy Judge Williams held that there was evidence of negligence as to the sheep, but not as to the cattle, as the defendant had added eleven animals late in a very dry season—in spite of his knowing the land and being aware of the presence of acorns. Judgment was therefore given for the plaintiff on the claim, and for the defendant on the counter-claim for the loss of three sheep at 66s. each, viz., £9 18s. without costs, as the plaintiff had paid £10 into court.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Bastardy—Recovery of Costs on Appeal to Quarter Sessions.

Q. 2101. On an appeal against an order made by a court of summary jurisdiction under the Bastardy Acts, the appellant, A.J. entered into a recognisance with his surety T.J., duly to appear and try such appeal and to abide by the judgment of the court, and to pay such costs as might be awarded. The notice of recognisance was actually in the following terms: "Take notice that you A.J. are bound in the sum of Thirty pounds and your surety T.J. in the sum of Thirty pounds that you the said A.J. shall appear at the next Court of General Quarter Sessions, etc. on . . . and then and there to try an appeal against an order of affiliation made etc., whereby you the said A.J. were adjudged to be the putative father, etc., and abide by the judgment of the said court therein and pay such costs as may be awarded by the said court. Dated, etc." The appeal is heard and dismissed with costs in favour of the respondent. After taxation the costs are not paid. The appellant is a man of no substance and he has no goods on which to levy a distress. (1) What steps can be taken to recover payment of the costs and what is the procedure? (2) Can the court before whom the recognisance was entered into order the surety to comply with his bond and see that the costs are paid and in default enforce such order by distress on his, the surety's goods? (3) Failing this, if the surety's recognisance is ordered to be forfeited and presumably the money applied in accordance with s. 9 Summary Jurisdiction Act, 1879, is there any method by which such amount can ultimately be allowed and repaid to the respondent on account of costs?

A. (1) Application should be made to the appellant and his surety for payment. If they refuse or fail to pay, application should be made to sessions to estreat the recognisance. If they be estreated, the sheriff will levy and pay the amount of the recognisances to the Treasury, to which the respondent must then apply for payment. (2) No. (3) See (1). Section 9 does not apply to a recognisance to appeal and pay costs. It is neither for appearance before a court of summary jurisdiction, nor for doing some matter or thing in, to or before a court of summary jurisdiction, nor is it in a proceeding in such a court.

Damages for Loss of Service of Son.

Q. 2102. I have been instructed by the father of a boy, aged fifteen years four months, who was knocked off a push bicycle recently, by the driver-owner of a lorry and killed, and am in doubt as to the sum that my client would be likely to recover for loss of services. The father is a working-class man who had a family of five children, three boys and two girls, including the deceased, who was the youngest. Up to a few days prior to the accident the deceased was employed locally as an errand boy at a wage of five shillings a week, but left that employment with a view to bettering himself. Of the two remaining boys, the eldest, unfortunately, is subject to fits and uncertain of employment, and the remaining boy is aged seventeen, and recently began work with the post office. Of the two girls, the eldest, aged twenty, is married, and the younger, aged eighteen, is in domestic service. The circumstances of the accident were particularly distressing to the father, as, according to the evidence available, the boy was in no way to blame. He was riding slowly and carefully without any warning of impending danger and was swept off his bicycle and killed by the overtaking lorry, and the father feels that he should be entitled to recover, in addition to the funeral and incidental expenses to which he has been put, a substantial sum in respect of the loss of services, as the boy was just coming to the age when he would have been able to assist his parents, who are comparatively elderly people. Is there any recognised basis which has been applied by the court for estimating the general damages in this class of case?

A. Unless the father can show actual pecuniary loss, directly caused by the death, he cannot even recover nominal damages, see *Duckworth* v. *Johnson* (1859), 4 H. & N. 653. The loss of services in the above circumstances is nil, as the boy was actually unemployed at the time of the accident, and it is impossible to estimate the hypothetical value of his future contributions to the common fund of the family. In fact, he would apparently have been dependent upon his father for some time to come, and the funeral expenses are in any case not recoverable. See *Clark* v. *London General Omnibus Company Limited* [1906] 2 K.B. 648.

Title to Roadside Strip.

Q. 2103. On 12th January, 1916, 16 perches of land, part of a larger enclosure of land, were sold by the executors of A to a county council for road widening purposes. In 1921 the remainder of the field was sold by the executors of A to the tenant of the field, the parcels referring to the whole field with its tithe number and ordnance number, but less a portion of the said close containing 16 perches or thereabouts sold to the county council for the purposes of widening and straightening the public road. In 1928 the then tenant sold the enclosure to Mr. B, less the 16 perches. Since 1916 the whole close of land, including the 16 perches, has been occupied by the tenant and/or his sub-tenants and Mr. B, and the rates and taxes on the whole field, including the 16 perches, have been paid by them. Mr. B. now claims that he has acquired a title by adverse possession, and that the county council cannot now disturb his possession of the 16 perches. Is this contention correct?

A. The conveyance of the 12th January, 1916, indicated an intention to dedicate the 16 perches of land to the public, but there is no evidence that the land has been thrown open to or used by the public. B could only claim to be entitled to the land, however, if he were a purchaser for value without notice, as laid down in *Attorney-General* v. *Biphosphated Guano Company* (1879), 11 Ch.D. 327, and *Corsellis* v. *London County Council* [1908] 1 Ch. 13. The subsequent conveyances of 1921, and 1928, expressly exclude the 16 perches, and therefore B's case is outside the scope of the above decisions, but is governed by *Dawes* v. *Hawkins* (1860), 8 C.B (N.S.), 848. It was there laid down that the public rights, when once acquired, cannot be released or diminished by non-user. The occupation of the 16 perches by the tenants and B has therefore been an encroachment, which a jury might hold to be a nuisance, as no rights were reserved by the dedicating owner in 1916. In the circumstances the acceptance of rates by the county council does not preclude them from claiming the 16 perches, as their consent would be no answer to an indictment for nuisance. See *Attorney-General* v. *Barker* (1900), 83 L.T. 245. There can be no prescription to cause a public nuisance, as laid down in *Fowler* v. *Sanders* (1617), Cro.Jac. 446, and therefore B's contention, based on adverse possession, is incorrect.

THE ROYAL MEDICO-PSYCHOLOGICAL SOCIETY.

THE ELEVENTH MAUDSLEY LECTURE,

20th November, 1930.

"TRUTH."

By THE HON. MR. JUSTICE McCARDIE.

It would have been a privilege to address you to-day on the vital and urgent question of the sterilisation of mental defectives. It would have been an equal privilege to discuss the validity at the present time of the famous but ancient Macnaughten Rules with respect to insanity and criminal responsibility.

It was, however, the wish of those who so ably guide the Maudsley Trust, that the lecture for this year should be free from technical detail.

So I decided, perhaps unwisely, to choose the subject of "Truth."

Truth, as a word, is the most majestic in the English language. Truth, as a living principle, is of deep concern to all citizens. Doctor Maudsley was, throughout his long life a devoted lover of the truth. My subject is therefore a tribute to his memory. For ten years he was Professor of Medical Jurisprudence at the University of London.

I will therefore, if you will allow me, devote the major part of my time to those aspects of Truth which arise in our courts of justice.

This lecture is held under the auspices of the Royal Medico-Psychological Association.

Whatever be the precise range of psychological activities it is, I take it, clear that the primary purpose of psychology is the study of the human mind, the human instincts and the human emotions.

That, perhaps, is the greatest study of all.

The day has gone by when psychology was but a mere aggregate of uncertain data.

It is now more than a mere division of philosophy—more than a mere branch of science.

It may be said justly that it has become a practical art as well. Psychology may establish itself as the dominant influence of the future.

I give this full recognition to the present status of psychology because I conceive that as the range of its operations widens it will devote a full measure of attention and energy to that greatest and most comprehensive of all matters, which men call "Truth."

I will not pause to examine the many definitions of Truth. I will not touch on the distinctions between truths which are fundamental and immutable and those which are mutable and contingent.

Nor do I more than point out that there is truth of fact and truth in the statement of fact—truth of opinion and truth in the statement of opinion.

It will suffice for the purpose of this address if I define Truth broadly as "conformity to fact and reality." Time will not permit me to consider those courteous inaccuracies of statement which lubricate the daily intercourse of life or to analyse their influence on our standards of honour and character.

Nor will I dwell on those merciful rules of reticence which so often save not only the living but also the relatives of the dead from the bitterness of unneeded exposure.

Let him who will discuss the ethics of such matters and determine, if he cares to do so, the conflict between the claims of mercy and the claims of Truth.

Still less is it necessary to examine the questions raised by a remark of Mr. Bernard Shaw in "Heart Break House" (published just after the Great War), when he says:—

> "Truth telling is not compatible with the Defence of the Realm Regulations."

Those fascinating matters must be left to other occasions. I will ask you, in due course, to come with me to a court of justice and to see with me the problems of truth-finding that a court must deal with.

I will ask you to consider whether psychologists can offer any practical suggestions as to the tests to be applied by those whose duty it is to discover the truth. He who can give such suggestions will indeed be a benefactor to the cause of justice.

You will, I think, agree with me, that the small world of human nature to be seen within the walls of the courts of justice, is very much the same as the larger world to be found outside those walls. I should like to bring to your attention some of those grim realities of falsehood which affect the administration of justice and touch the interest of every citizen, be he psychologist or not.

For, mark you, gentlemen, you and I are alike searchers for the Truth. The doctor in his consulting room, the psychologist in his study, the surgeon in his operating hall, are much the same in their purpose as the judge who sits on the Bench.

Over each there stands the august but invisible figure of Truth.

I speak to you to-day, not as a scientist, but as one who for nearly forty years at the Bar and on the Bench has watched the subtle phases of human nature, the constant workings of self-interest, the powerful influence of bias, and the unceasing struggle in the courts to vindicate or defeat the truth.

It is well for scientists, as for others, to step aside now and again from their accustomed grooves of work and thought and to enter another path of observation and enquiry. It is so easy for each of us to overlook things of importance.

But before we go to a court of justice shall we glance at the world around us and also look for a minute or so into our own minds and instincts.

How often is Truth still upon the scaffold?

How often is Truth still kept in the dungeons of suppression?

Those are indeed great questions.

But Truth, gentlemen, is a vast subject, and, as John Stuart Mill once remarked:

> "On all great subjects there is much to be said."

I can therefore deal with a *few aspects* only.

And, first, in what spirit shall I approach the topic of Truth?

In the spirit of enthusiasm? Surely not—for, as the late Lord Balfour acutely observed:

> "Enthusiasm is a great thing, but it is a pity that so few enthusiasts can be trusted to speak the truth."

That is a hard saying, but it seems to me to be one of profound and far-reaching significance.

No more potent cures for enthusiasm are to be found than in the comparative study of science, of history, of economics and of law.

The words of Lord Balfour may well be taken to heart by those eager and ambitious propagandists who from time to

time advocate, in so feverish a manner, their vast and numerous schemes of social change.

Enthusiasm is an *enemy* to Truth unless it be guided and restrained by a knowledge and love of Truth.

The psychology of enthusiasm awaits the attention of expert students of human nature.

I should myself wish to deal with the subject of Truth in the spirit of a fearless and unbiassed man of science. How profoundly different would our public life be to-day if that spirit had been adopted by those who profess to deal with the grave social and economic problems that beset the nation!

I venture to think that the key-note for honourable public life was given by the words used by Prof. PARKER of T. H. HUXLEY:—

"He never faltered in his firm determination to speak the truth *at whatever cost of popularity*."

Equally striking, I feel, are the words used by CHARLES DARWIN in his "Autobiography":

"I have (he says) steadily endeavoured to keep my mind free so as to give up any hypothesis, however much beloved, as soon as facts are shown to be opposed to it."

It was once observed that "the greatest tragedy in life is to see a theory killed by a fact."

But the tragedy, gentlemen, is a tragedy only for the error. It is, for Truth itself, a triumph.

Public controversy in this country will never, I feel, rest on a righteous basis until the spirit of the fearless and unbiassed scientist is recognised and adopted by all who address the people.

The task of psychology towards establishing that spirit may be a hard one, but it will, I believe, be achieved ere many decades have gone by.

Happy the day when each public controversialist can apply to himself the great words framed by the late Lord BALFOUR and say:—

"I prefer Truth to Victory."

Looking broadly at the world of public and argumentative world of speech and print around us, it seems to me that Truth has three major but latent enemies. They are: (1) Lack of courage; (2) self interest; and (3) bias. How often do we overlook them? How rarely do we rightly estimate their reality and force? May I say a word as to each?

(1) *Lack of courage.*

Shall we not all agree that lack of courage lies at the root of much that lowers the standard of our public life? Too many men whisper to themselves the words of VOLTAIRE:—

"I am fond of truth *but not of martyrdom*."

Surely they should strengthen themselves with the nobler spirit of RUSSELL LOWELL when he says:—

"I honour the man who is willing to sink
Half his present repute for the freedom to think."

(2) *Self Interest.*

Here is a grave enemy attacking Truth in many ways—sapping it in innumerable directions. If we watch the play and movement of life around us we shall see on every side how wide-reaching and deadly is the influence of self interest. With respect to every controversial utterance, whether written or spoken, I should myself put the question: What, if any, *self interest* has the writer or speaker to serve?

If we put that question and press it with severity, then we shall be able to fix the real worth or worthlessness of much that is said and written.

(3) *Bias.*

The history of bias has yet to be written. The psychology of bias has yet to be fully revealed. Here indeed is a subtle and powerful enemy to truth with its tentacles spread in every direction and working with constant and cogent pressure. How little do we realise all that bias means in the great sphere of argument and opinion!

There are, I think, two vital facts to be remembered at all times. First, that bias works not openly but *surreptitiously*, and secondly, that it produces evil effects which are beyond measurement and calculation.

I venture to suggest that with respect to every book, every newspaper, every article, every speech, there should be asked the question: What is the *bias* of the author or speaker?

Few indeed are the publications and utterances (other than the rigorously scientific) which are not tainted with the insidious workings of *bias*.

How greatly a frank admission of partisanship (if only we could get it) would weaken the force of many arguments. It would create a corrective and a beneficial *mis*trust in those who read or hear. The evil would be *known* and therefore half destroyed.

It seems to me that one of the dangers to-day is the assumption by too many of an attitude of impartial outlook as a mere cloak for subtle and misleading assertions.

The vast majority of ordinary folk have not yet learnt the psychology and methods of propaganda.

But as we mention the outside world we must be reminded of ourselves. Do we (you and I) perceive the foes of truth who may be lurking in *our own* minds and instincts, whether those foes be lack of courage, bias, self interest or the like.

Has our analysis of the faults of others been accompanied by a like analysis of our own mental and emotional equipment?

We may say now and again "That man is biassed." Does it occur to us that such a remark may spring from the fact that we ourselves are biassed against *him?* The subtleties of human nature are indeed strange.

"Thou art the man," are words of scripture. They might well form a text from which psychologists could preach.

It is more than three centuries since FRANCIS BACON published his famour "Novum Organum." You will remember the well known Idola (or obstacles to truth) there set forth. They are much the same as those named, some three centuries earlier, by ROGER BACON in his "Opus Majus."

To the enemies of truth I have expressly mentioned may be justly added others, viz.: (*a*) undue regard to ancient authority; (2) habit; (3) prejudice; (4) false conceit of knowledge; and (5) indolence of mind.

All these enemies are around us to-day, and it is for psychology to play its part in defeating them. I believe that the worthier part of the nation is yearning for a fuller measure of truth. Nay, more—it is yearning for a new *attitude* to truth.

I trust that the day is coming when a fresh spirit will awaken and when, above all, the bitterness and bias of the mere partisan will be regarded as the symptoms of a moral defective.

May I now speak to you on "Truth" in our Courts of Justice. It is a subject far too rarely discussed. It is a grave matter. It touches all citizens although, of course, the litigant or the accused are, of all men, the most deeply concerned with Truth.

To-day I need not deal with decisions on points of law. They are technical aspects only of the courts and of comparative rarity. Questions of *fact* are the most vital concern of the courts. Upon these questions depend fortune, character, freedom—aye—life itself.

In 1845 DANIEL WEBSTER, of the United States, in addressing Mr. Justice STORY, said:—

"Justice, Sir, is the great interest of man on Earth."

Those were noble words—alike for the ordinary citizen and the trained psychologist.

Truth of testimony is essential to the right administration of justice.

Perjury is the great enemy of justice.

There is no more difficult task than to discover the true and expose the false.

May I venture to hope that those who engage in the study and practice of psychology will give a generous measure of

their attention in the future to the momentous problem of truth finding in our courts.

I, myself, would gladly welcome every practical suggestion that responsible psychology can given.

You may recall the interesting forecast by the late Lord BIRKENHEAD in his recent book, entitled "The World in 2030 A.D." There he said (p. 196):

> "In the year 2030 forensic eloquence will cease in Courts of Law. Prevarication whether by prisoner, witness or advocate will be instantly detected and therefore worse than useless. What will it avail a Murderer if a Demosthenes demand his acquittal from a jury which has been scientifically convinced of his guilt *on psychological grounds?*"

Happy the day when that prediction is fulfilled!

Now the question at once arises—

Is perjury (that is *wilful false* evidence as to facts) widely prevalent in our courts to-day?

The question is a serious one. I answer it at once.

In my view perjury can never have been much more rife than it is at the present time.

It is, I fear, equally rife, perhaps more rife, in other countries.

Perjury is, of course, not a new thing. I observe that towards the close of the seventeenth century a well-known judge (he was called Lord JEFFREYS (Lord Chief Justice)), said:—

> "We live in an age when truth passes for nothing in the world and swearing and forswearing is taken for a thing of course. Had the zeal been half as much for truth as it was for falsehood it had been a commendable zeal."

The case of *Braddon* (1864), 9 How. State Trials, p. 1198.

Perjury exists to-day to a most deplorable extent. I feel compelled to say that it is committed in greater or less degree in a majority of the civil and criminal cases that come for actual and contested trial before the courts.

The ordinary layman, be he of worldly experience or not, has but little conception of the repulsive amount of false evidence that is given day by day.

All of experience must agree that perjury is the greatest of all evils in the courts.

I think that the public should realise the extent to which it exists.

Complaint is sometimes made of the length of legal proceedings. Let me point out at once that if perjury could be stopped, the length of the trials, would, in the large majority of cases, be *incredibly* short.

It is, as a rule, the basic cause of prolonged hearing on questions of fact.

Moreover, if perjury were generally renounced as an instrument of misleading the courts, the civil litigation would at once fall to a mere fraction of its present volume and criminal trials would occupy less than half the time they now demand.

Perjury is indeed a terrible evil and menace.

Perhaps the most glaring type of perjury has arisen since the Criminal Evidence Act, 1898, which enabled all persons charged with crime to give their evidence on oath in the witness box.

The psychological and sociological effects of that legislation are well worthy of attention.

Broadly speaking, it may be said that, when not pleading guilty, those who are accused avail themselves of the right to enter the witness box.

Now a man charged with crime gives evidence, as a rule, not to admit an offence, but to *deny* it.

Go, if you will, to any criminal assize court, and you will hear day by day an almost incredible amount of deliberate falsehood committed, not only by the man charged, but also, I may add, by wife or child or relative or friend who may be called to support his defence.

Perjury by a person accused is now, I regret to say, regarded as being the *normal incident of a contested* criminal trial. It has ceased to surprise. It has become almost a matter of course.

So far as I can recall, few prosecutions have taken place within the last ten years in respect of perjury committed by those who have been tried for criminal offences at the assizes or the quarter sessions.

The average total each year of prosecutions for perjury in all classes of cases and throughout the country, is about fifty.

If the offence was followed by prosecution (assuming that technical requirements could be fulfilled) then the criminal courts of this country would, I fear, be engaged every day of the year in trying offenders against the law of perjury.

It would take too long to consider with you the reason for this lack of prosecution.

Perjury in the divorce court by those who enter the witness box in answer to a charge of misconduct is but little less prevalent than in the courts which administer the criminal law.

I venture to repeat what I have said already, viz., that in the majority of contested cases, whether criminal or civil, perjury is committed by one or more witnesses.

In many civil cases, moreover, evidence is, at some stage or another, given on affidavit. Every experienced lawyer knows that the aggregate of knowingly false or misleading statements in affidavits passes belief.

The chief motive for this lamentable and widespread commission of perjury is of course self-interest, i.e., a desire to escape a conviction and punishment; or to establish or defeat a claim for damages, debt, or property. But there are many other motives for perjury which range from the loyalty of wife or child, relation or friend, to a mere desire for revenge. All motives play their part.

Here, indeed, is matter for the psychologist to examine.

I should like here to point out that far too many witnesses, both in civil and criminal trials, seem to hold the belief that an action or prosecution is not a public search for Truth, but a mere *contest or game* played between opposing parties.

Now there are two broad statements I desire to make with respect to the *incidence* of perjury.

First—I think that deliberately false evidence is but rarely given for the *prosecution* in criminal cases of a serious nature. The exceptions to this general statement are to be found in cases where children or girls and sometimes grown women give evidence against men who are charged with sexual offences. In those cases the evidence of children, girls and women is often and most seriously tainted with falsity.

Secondly—That perjury is but rarely committed by those who are petitioners for divorce or by witnesses who are called in support of the petition. The bulk of perjury in the divorce court is committed by those who are actually charged with misconduct.

I have mentioned perjury by wife, child, relation and friend.

As to wives, I can recall but few cases where a wife had not been ready to follow a husband's example and to support his perjured testimony with her own false evidence. Of children the same may be said with respect to their parents, and so, too, of many relatives.

In many many instances, alas, the loyalty of a friend to a friend has been greater than his loyalty to Truth.

Mr. Chairman, I have drawn a dark picture. I almost doubt if the colours are black enough.

It is, I fear, a grave and significant fact that the administration of the oath affords but small security to-day against false evidence. The personal character of a witness is, in many cases, more important than the oath itself. So far as the oath is efficient at all it is the fear of *prosecution* rather than the mere ceremony which effects the desired purpose. The oath is rapidly losing its sanctity. Too often it is looked upon as a mere formality.

I recall that at a northern assize a witness was about to take the oath. The officer of the court said to him "Now kiss the book." Suddenly the voice of the opposing litigant called out "Kiss the book—Kiss the Book; why he could not speak the truth if he *swallowed* the Book!"

The point of that incident might be applied to very many witnesses.

The form of the oath seems in itself to be suitable in form, inasmuch as the witness is required to speak "the truth, the whole truth, and nothing but the truth." I am bound to say, however, that even the honest witness may have sometimes a difficulty in speaking the whole truth, for the reason that the testimony given by the witness is so often limited by the carefully framed question of the counsel who calls him. Too rarely is the honest witness allowed to tell his *own* story in his own way. Too often, therefore, is the dishonest witness enabled to present an untrue picture to the court. How just is the observation of Lord DARLING that—

"Much *truth* is spoken—that more may be concealed."

There is, I think, an ever-growing tendency for the witness to regard himself as an advocate or supporter, rather than a simple speaker of the truth. And here I must face a question which I have more than once put to myself. It is this: Does the fulfilment of a barrister's functions as an advocate tend to implant a false standard or conception in the mind of the average witness who is present in court and watching with eager interest the conduct of a case by counsel?

I fear that the answer must be—Yes.

The effect of a barrister's advocacy on a witness is subtle and psychological.

But it is, I think, a real influence.

Many uneducated and some well-educated witnesses fail to realise the exceptional function of members of the Bar.

May I give you a passage from BOSWELL'S "Life of Johnson," which sets out with pleasant clearness what I think is an accurate view of the barrister's calling?

"I asked him (i.e., Doctor Johnson), said Boswell, whether as a Moralist he did not think that the practice of the law, in some degree, hurt the nice feeling of honesty?

Dr. Johnson replied: "Why no, sir, if you act properly."

Later, Boswell said: "What do you think of supporting a cause which you know to be bad?"

Dr. Johnson replied: "Sir, you do not know it to be good or bad until the judge determines it."

And the learned Doctor added (upon the legal aspects of a case) "An argument which does not convince yourself may convince the judge to whom you urge it, and if it does convince him, why then, sir, you are wrong and he is right. It is *his* business to judge."

A little later Boswell said: "But, sir, does not affecting a warmth when you have no warmth and to be clearly of one opinion when you in reality are of another opinion, does not such dissimulation impair your honesty?"

Dr. Johnson replied: "No, sir. Everybody *knows* you are *paid* for affecting *warmth* for your client."

Dr. JOHNSON has, I think, correctly explained in broad terms the basic features of the advocate's calling. I venture to add here and with regret that I think perjury in the Law Courts is in some degree encouraged and increased by the low standard of frankness and honesty so wide and unhappily shown in many aspects of our party political system.

These things act and react on one another in a grave and significant manner.

Now you may justly ask the question here: How, if perjury be so rife in our courts, can justice be done at all either in criminal or civil cases?

My answer is that through the experience and knowledge of the judges, informed by a long experience at the Bar, and through the powerful weapon of cross-examination wielded by counsel, justice is in fact done to a very large and satisfactory degree.

As to criminal cases, I can say from my own long experience of quarter sessions and assizes that, so far as my own knowledge goes, I do not recall a single case in which a really innocent man has been convicted.

Acquittals are frequent; sometimes they are given on technical grounds. Not a few of the guilty escape. The law assumes innocence. It requires adequate proof of guilt. Juries are often lenient. Sometimes they are very merciful. If doubt exists they are willing to acquit.

Perhaps as an example of a very merciful jury I may mention to you a case that was told to me by a Chairman of Quarter Sessions. A man was charged with stealing fowls. He lived not far from the hen house that had been despoiled. Footmarks, identified as the prisoner's, led from the hen house to his cottage not far away. A trail of feathers also led to his cottage. There were other suspicious circumstances.

But the verdict of the jury was rendered as follows:—

"We find him guilty of the footmarks. We find him guilty of the trail of feathers. But we find him not guilty of stealing the fowls."

As to civil cases I am satisfied that, in the great majority of cases justice is achieved. Erroneous decisions on questions of fact are, I suppose, sometimes given. But in view of the deplorably dishonest material on which judge and jury so often have to act, the wonder is not that occasional injustice may be done, but that so often the right decision is given.

Now what can be done to stem this tide of perjury?

Here is a grave and far-reaching question, not only for psychologists but for all responsible citizens.

The psychologist who can discover some reliable and practical test of veracity will indeed be the greatest benefactor known in the long history of human justice.

Just as alchemy advanced to chemistry, just as astrology advanced to astronomy, so I hope that the present system of ascertaining Truth will move forward in the future to what I may call a practical science of "*Veritology*." That forward movement will call for all the help that the ablest psychologists can give.

Now how do the tests of Truth stand in the courts to-day?

No one as yet has tried to formulate them fully and clearly, and time does not permit me in this brief lecture to attempt to do so in detail now.

At present the tribunal of fact must do the best it can by observation, psychological instinct, knowledge and experience of human nature, by considering probabilities, by examining correspondence, diaries and documents, by weighing motives, by observing bias and by detecting so far as possible, the influence of pecuniary or other interests.

Somewhat recently public reference was made to a most interesting mechanical invention called the "Lie Detector."

That machine has not yet been fully applied so far as I know in this or any country, either to litigants or witnesses, or to others.

It depends for its operation on the reactions, revealed by an ingenious device, to the impact of chemical messengers discharged into the blood stream at the behest of a fear-stricken sensorium. Fear (i.e., the fear of detection), is said to produce definite and measurable states of blood and body which enable us to know whether a person is speaking the truth.

It would indeed help profoundly in the administration of justice if, by some magic of discovery, a reliable and practical detector of deliberate falsehood could be discovered and could be applied in our courts.

The task of a tribunal would become infinitely easier. The golden age might almost seem at hand!

But I must point out at once that there may always be a grave difficulty in distinguishing between the blood and body states produced by acute nervousness (as distinguished from conscious dishonesty), and the blood and body states produced by the fear that deliberate perjury will be detected.

It has, moreover, to be remembered that much evidence is given in the courts which though quite erroneous is not intentionally false.

It is difficult to see how this latter class of evidence can at any time be dealt with by any mechanical detector or by any existing psychological test.

I wish that all here present would from time to time pay a visit to a court of justice, and there listen for an hour or two to an action, not necessarily of a sensational nature, but even to an ordinary action for debt or damages. They would then realise the difficulties of those whose duty it is to find the truth and give judgment on the finding. They would realise also the infinitely various aspects of human nature and the numberless subtleties of motives, passions and tendencies.

As the late Sir JOHN MACDONNELL wrote :—

"A trial is a living picture. It brings us nearer to life than the best literature. You hear the voices. It is life itself."—Historical Trials, p. 2; Clarendon Press (1927).

Those who watch a trial would ere long agree with SHAKESPEARE when he said :—

"There's no art,
"To find the mind's construction in the face."
—Macbeth, Act. 1.

It would take too long to tell you the result of many years observation of witnesses.

But from the psychological point of view it is of interest to examine a few points with respect to those who enter the witness box.

Some have asserted that they can detect from a witness's demeanour or bearing whether or not he is telling the truth. The quiet self-possessed witness is often assumed to be giving honest testimony.

The nervous and anxious witness is often assumed to be giving false testimony.

In my view, both these assumptions are without foundation.

I take, first, the quiet, confident and self-possessed witness. He is attractive to judge and jury.

But there are several things to be remembered :—

(1) That such a witness is often assuming a well-considered pose for the purposes of the trial.

(2) That he is usually possessed of ability and good memory and fully alive to the importance of giving his evidence in manner agreeable to the tribunal.

(3) That the ablest and most sustained perjury usually comes from witnesses of such a type as that in question.

And here it may be asked : Which of the persons charged with an offence gives evidence in the coolest and most self-possessed manner ? My answer is this : It is the person charged with MURDER.

I have tried many persons for murder, and in the majority of cases those accused have entered the witness box. I recall but few who have not given their testimony in a quiet, confident, almost dispassionate way, with adroitness of reply, ingenuity of explanation and singular ease of manner.

In view of that fact I wonder how any possible mechanical lie detector would operate in such cases, and what chemical reaction would be shown by guilty but self-possessed persons who employ perjury in order to defeat, if possible, the demands of the law for punishment.

The ease of manner I have mentioned might perhaps be expected from those who have been guilty of deliberate and calculated murder. Instances of such persons will readily occur to you. But, strangely enough, even in cases where the murder has been one of passion or anger, the person accused, when he enters the witness box, often displays a noticeable degree of self-possession and adroitness. Broadly speaking, moreover, it may be said that the greater the criminal the more able and effective he is as a witness.

The habitual criminal is often the best witness of all.

There are ladies here to-day, and ere I pass from the murderer, as typical of the cool witness, to witnesses who may be described as nervous, it may be as well to give a passing observation as to female perjurers, whether litigants or witnesses, or when charged with criminal wrong-doing. I think it may be said that nothing can exceed the skill, the self-confidence and the audacious reliance on sex that is so frequently displayed by the intelligent female perjurer.

She has, moreover, a histrionic sense which is not, as a rule, possessed by the male.

Many women, alas ! seem to have a peculiar faculty for the attractive and plausible presentment of false evidence.

Gallantry must yield to Truth in this address.

I have spoken of self-possessed witnesses.

May I now say a few words on the nervous witness. His symptoms are well known. Uneasiness of manner, rapidity of speech, the appearance of acute anxiety, uncertainty of words, and sometimes an obvious confusion.

Those who sit in court, whether as barristers or the public, regard him with suspicion.

Now what bearing have the symptoms mentioned on the question whether the nervous witness be speaking the truth ?

In a well-known and delightful book by Lord DARLING called "Scintillæ Juris" it is said :—

"A nervous witness generally means to speak truly, and *seldom* does so."—p. 59.

But that is a humorous epigram by a distinguished man, and it is correct to a very limited extent only.

Nervousness (apart from bad health) is often caused by the unusual position and elevation of the witness-box. In many cases the witness is speaking *in public* for the *first time in his or her life*—a fact often forgotten by observers in court. The occasion is absolutely novel, and the witness, moreover, has to face a judge, jury and opposing counsel—a somewhat embarrassing array. Small wonder, therefore, that many a witness is nervous. But there are many other reasons for nervousness, and the psychologist and student of human nature may like me to give two illustrations.

(*a*) Many years ago a man occupied the witness-box as plaintiff in a claim for money lent. He was a man of powerful physique, strong face and vigorous mind. As it turned out his claim was absolutely honest and well founded.

But when giving his evidence, and particularly during cross-examination he displayed the most pitiable nervousness.

To the untrained observer he might well have given the impression that he was making a grossly false demand against the defendant.

A mechanical lie detector might have given an adverse verdict. His chemical reactions would have been, I assume, most suspicious.

But what was the real reason for his nervousness ? I will tell you.

He was a man of middle age who had gained a good position and an adequate fortune by hard work and merit. He was happily married and with several children. His wife and two of his daughters were in court.

Now that plaintiff, when a youth of twenty-one, had been convicted of embezzlement. He knew before he entered the witness-box that the defendant's counsel was aware of the conviction.

The nervousness of the witness was due to the fear that a question might be put to him, in order to discredit his testimony. The question would be this :—

"Have you not been convicted and sent to prison for embezzlement ?"

If that question had been put the plaintiff's wife and children would have known for the first time a most tragic fact in the life history of a man who for more than thirty years had borne an exemplary character as citizen, husband and father.

I am glad to say that the question was *not* put; for the case was settled in the plaintiff's favour before he had finished his evidence.

(*b*) I take as a further illustration the case of the East End Jewish trader.

He was sued before me for about £200, in respect of goods supplied. His defence was that the goods did not agree with the contract.

The plaintiffs, however, asserted that this defence was not an honest one and that the real reason for his omission to pay was that he had not got the necessary money. The defendant was cross-examined before me as to his financial position. He became extremely—almost ludicrously—confused, but asserted that his means were ample.

Here again the ordinary observer in court would have regarded the man with the gravest suspicion. I never saw a more uneasy witness.

He was asked as to his balance at the bank, but his memory seemed uncertain. He was asked for his pass book. He said he had forgotten to bring it. I myself suspected that there might be a special reason for the man's nervousness.

So I adjourned the case until the morrow.

The next morning the defendant again entered the witness-box. His bank manager was in the body of the court. The witness produced his two bank books, viz., his current account book and his deposit account book. I examined them. The current account showed that the amount to his credit was nearly £3,000. The deposit account showed that the amount to his credit was over £40,000.

Now those amongst you who are trained psychologists will perhaps infer at once the cause of the man's nervousness. For the benefit of others, however, I may state the real reason for the nervousness, a reason what I had previously suspected. The fact was that the defendant had never made honest returns for income tax and he was in a state of terror lest the hearing of the case should lead to the truth becoming known to the revenue authorities with somewhat serious consequences to himself.

I may add that upon the merits of the case and not upon the character of the defendant I felt bound to give judgment in his favour.

Here, again, I wonder what the chemical reactions of that man were when he was being sternly cross-examined as to the extent of his financial resources.

The fact is that a nervous witness often means to speak the truth—and *frequently* does so.

Before I pass to another type of witness as to fact, I should like to say a few words on the "expert" witness. He has been the subject of much criticism and some denunciation.

Now, the expert witness deals primarily with questions of opinion. In so far as he asserts facts he stands on the same footing as the ordinary witness.

I am glad to say that as a rule there is but little difference on questions of fact between the expert on one side and the expert on the other. But the conflict of opinion is often striking and sometimes astounding.

Why is this? There is, of course, the broad circumstanced that many experts differ just as much outside the court as within the court.

Nothing is more singular, e.g., than the variations of view between so-called economists or financial experts on vital questions of trade or financial policy, whether they relate to tariffs, the gold standard, or the like.

But apart from the honest and perhaps unavoidable clash of opinion there is undoubtedly a tendency, sometimes a strong one, for the expert in the witness box to become a *partisan*.

It is this tendency, I think, which leads to the greater part of the invective against the expert witness.

The expert too often forgets that he is a witness *on oath* and not a well-rewarded advocate.

It is somewhat curious that the oath administered to the expert witness is exactly the same as that administered to ordinary witnesses of fact.

He is sworn to tell the "truth, the whole truth and nothing but the truth."

This form of oath seems somewhat inappropriate to cases where the facts as between the experts are not in dispute but where the question at issue between them is one of *opinion* only. The oath does not in words refer to matters of opinion.

The subject of expert testimony is one of singular interest, but I will only add, and with pleasure, that in my view the quality of that testimony is steadily improving. The explanation of this is to be found, I think, not in any greater appreciation of the oath, but in the ever-growing standard of integrity, fairness, honour and dignity amongst the members of the expert professions.

May I now speak briefly and in conclusion of the type of witness who is free from conscious dishonesty and who enters the witness-box with a normal measure of desire to speak the truth?

The achievement does not always equal the desire. A great amount of inaccurate testimony is given day by day by honest witnesses.

When weighing this type of witness it is always important to ask several preliminary questions—

(1) Is the witness intelligent?
(2) Is he observant?
(3) Has he a good memory?

But even when the answer to each of those questions is "Yes," there still remains the vital matter of bias or partisanship.

Perhaps the most striking illustration of bias or partisanship is to be found in the numerous, almost innumerable, civil actions known as "running down cases."

Here is a type of litigation which the psychologist may study with advantage.

For what is the problem for the court?

It was, you may recall, humorously described not long ago by Lord HEWART, the Lord Chief Justice, when he said that he sometimes grew weary of trying to ascertain the Truth as to negligence in cases where, according to the evidence given by the respective parties and witnesses, each motor car was, at the time of the accident, on its proper side of the road, each was under the most perfect control and each was absolutely stationary a few seconds at least before the collision took place!

I confess my own view to be that in a large number of these accident cases the testimony of many witnesses is not only inaccurate, but is consciously false. Many of the points of fact in controversy cannot be the subject of really *honest* mistake.

But, however that may be, the conflict between witnesses (all apparently honest and respectable) on the one side and witnesses to an equal number (all apparently honest and respectable) on the other side—often passes belief.

As an illustration, may I recall an action in which the collision had taken place between two chars-a-bancs, each of which was filled with passengers.

Each side asserted that the other was driving very fast and on its wrong side of the road, at the time of the collision.

The questions of fact were of the simplest.

You would think that no honest and intelligent person would have the slightest doubt as to the answers.

Yet upon each of the points in issue some sixteen passengers from the first char-a-banc swore one way, and some sixteen passengers from the other char-a-banc swore exactly the opposite way.

Every witness seemed to be most respectable, honest and intelligent, and none of them had any pecuniary interest in the result of the trial.

Now what is the explanation of so strange a phenomenon?

It lies, I think, in two facts.

First.—That the passengers in the one char-a-banc all belonged to one club and were engaged in a day's excursion

together, whilst the passengers in the other char-a-banc all belonged to another club, and were also engaged in a day's outing together.

Each body of passengers therefore held together in their testimony.

Secondly.—That each passenger identified himself consciously or unconsciously with the vehicle in which he was riding.

This spirit of partisanship or bias is singularly strong in running down cases (I may call it the "Esprit de *Voiture*") and it exists in other classes of action also.

The witness links himself resolutely to the litigant whose case he supports and this adherence colours and taints the whole of his testimony.

A judge and jury must always be alive to this aspect of human nature.

It explains many things not only in the courts but in many branches of our national life.

The *effects of bias are enormous.*

Few recognise adequately its influence on the thought and conduct of other people.

Fewer still recognise fully the influence of bias on their own personal thought and conduct.

Theologians and propagandists, sectional leaders and submissive followers may well give thought to the significance and the implications of the bias and partisanship shown in an ordinary running down case in our courts.

But here I must end this address and thank you for your courteous patience.

Time runs so quickly when we touch the vast and fertile theme of Truth.

We shall gain much if we perceive the grievous failings of the past.

We shall gain still more if we realise the faults and perils that exist to-day.

It is, I venture to think, our duty to future generations to take a part in building up a new and higher standard of truth.

If we strive towards that end we shall aid the march of righteous progress, we shall strengthen the souls of men and women and we shall give a fuller and more gracious dignity to our public and national life.

Alice in Police Court Land.

Being a jumble of things that have happened, a little exaggerated in the telling.

X.

"Alice, J.P."

Lord Lyon roared mildly in certain rooms to certain high personages, and certain strings were pulled in a certain way. Then one day our trusty and well-beloved Alice learned that "We" had assigned her to keep Our peace, and to cause to come before her all those who, to any one or more of Our people concerning their bodies or the firing of their houses, have used threats. She also found herself commanded diligently to apply herself to all and singular other the premises.

The last bit she applied herself to reading, first the right way and then backwards. Then she learned it by heart and hoped it meant something.

She attended a private meeting of the justices, really called to give her welcome.

"One thing you must never do," said Lord Lyon, "is to interrupt or interfere with the chairman." Then, more mildly, "Of course, *sub rosa* and behind the scenes, I'm always willing to listen to any of my colleagues."

"You'll find the Chief Constable a useful person," said Mr. Cantankerous, bitterly. "He always plays golf with Lord Lyon and they settle what ought to be done with each case. We are bound, you know, indifferently to administer justice. Some of us do, very indifferently."

"He's jaundiced, my dear," whispered the White Knight. "'Indifferently,' you know, is an old word for 'impartially;' and I'm sure Lord Lyon is very impartial."

"Yes," said the Secretary Bird. "There's one law for the rich and the same for the poor. What more do we want?"

Then Mr. Madden, who looked a little more cheerful than usual, came up. "You'll find licensing very interesting, and we're very lucky in having as a member of our body, Mr. Hoppes, who's the big man in Barrelage & Bams, the great brewers. What he doesn't know about licensing law isn't worth knowing. Why the other day he showed us how a fine new public-house could be built, and we could sanction it as alterations. It saved *such* a lot of trouble."

"I remember the case he mentioned," said Miss Dormeuse proudly. "Where a Lord Chief Justice said that anything less than taking in the whole of a street was only alterations."

"Ha! ha!" laughed Mr. Cantankerous in a nasty way. "And he showed us too how, so long as he didn't vote, he could sit at hearings of his own firm's cases. Ho! he's a clever fellow."

Alice felt there must be a hidden meaning in some of the remarks she heard, and that entire concord did not prevail among the members of the bench. But she soothed herself with thinking she had on a particularly nice dress, and that the matt surface on her nose was holding up nobly.

Presently the Secretary Bird sidled up to Alice. "You mustn't take too much notice of what any of them say. You come to me if you want any information or help. They think they do the job, but more often than not it's me, you know."

Alice smiled sweetly upon the old bird, who preened himself proudly. "I believe myself, it's C.2 All that does most of the work," she thought.

"So it is," said C.2 All, who had just come in with a letter for Lord Lyon, and was standing beside her unnoticed.

"So it is," he repeated. 'But don't remember too much of what I've told you. You mustn't spoil the game, you know. And I hope we'll always be friends, Miss," he added pleasantly.

Notes of Cases.

High Court—King's Bench Division.

Rex *v.* **London County Council;**
Ex parte **The Entertainments Protection Association, Ltd.**

Avory, Swift and Acton, JJ. 4th December.

Licensing Theatre Cinematograph Sunday Opening—Breach of Licensing Condition—Breach Sanctioned by County Council *Ultra vires* the Council Sunday Observance Act, 1781.

These two rules, a rule *nisi* for *certiorari* to bring up and quash an order dated the 29th May, 1930, granting permission for the Streatham Astoria to be open for cinematograph entertainments on Sundays, Christmas Day and Good Friday, and a rule *nisi* for *mandamus* to hear and determine according to law the application of Henry Thomas Richardson, made on the 29th April, 1930, for permission to use the Streatham Astoria for the above purposes on the days stated, were directed to the London County Council. The prosecutors of the above rules were the Entertainments Protection Association, Ltd., and they were obtained on the grounds: (1) that the London County Council exceeded their jurisdiction, and by reason of their taking into consideration an extraneous matter, namely, payments by the applicant to an approved charity; and (2) that their order was in breach of the Sunday Observance Act, 1781.

Avory, J., said that the Cinematograph Act, 1909, gave power to the London County Council to grant licences for

cinematograph entertainments, and those licences might be granted subject to conditions. In pursuance of those powers the council granted on the 14th May, 1930, a licence to Streatham Properties, Ltd., to use the premises known as the Streatham Astoria subject to the condition that "the premises be not opened on Sundays, Christmas Day, or Good Friday for cinematograph entertainments." That licence was granted on the 14th May, but before it was granted an application was made on the 29th April, for permission to use the premises for cinematograph entertainments on the prohibited days. After considering that application the Theatres and Music Halls Committee of the council passed the following resolution: "That subject to the arrangements at the Streatham Astoria being completed to the council's satisfaction, no action be taken for the present in the event of the premises being opened for cinematograph entertainments on Sundays, Christmas Day, and Good Friday, as from and including Sunday, 6th July, 1930, provided" (certain regulations of the council were complied with as regarded payments to charities, etc.). What was done, said his Lordship, was that which the London County Council had no power to do—to grant permission to the applicant to keep his premises open on Sundays. He entertained no doubt that the writ should go. The council were purporting to give permission to the applicant to do that which he was expressly forbidden by Act of Parliament to do. As regarded the rule for *mandamus*, that should be discharged on the ground that it was not appropriate to order a body to hear and determine an application which they had no power to hear.

SWIFT and ACTON, JJ., agreed.

COUNSEL: *Sir Boyd Merriman*, K.C., *D. N. Pritt*, K.C., and *A. F. Engelbach* showed cause; *R. M. Montgomery*, K.C., and *Sidney Lamb* supported the rules; *W. S. Morrison* and *S. P. J. Merlin* held watching briefs.

SOLICITORS: *The Solicitor to the London County Council; Rutland & Crawford; Seagrove, Woods & Mitchell; Norman Hart & Mitchell.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Obituary.

MISS E. J. TELFER.

We have to announce the death under tragic circumstances of Miss Esther Julia Telfer, conveyancing solicitor of Messrs. Telfer, Leviansky & Co., Basinghall Street, which occurred on Sunday, 21st December, at the age of forty-two.

Miss Telfer, who was admitted in October of 1926, studied for the law whilst nursing her father through a serious illness after her return from Malta, where she went in the early stages of the war with the first detachment of V.A.D.'s. For a long period Miss Telfer acted as the poor man's lawyer in the Kilburn district, and was well known in the profession in which she had worked with distinction.

The Law Society.

SPECIAL PRIZES OPEN TO CANDIDATES AT THE HONOURS EXAMINATIONS IN THE YEAR 1930; AND THE CITY OF LONDON SOLICITORS' COMPANY'S PRIZE.

THE SCOTT SCHOLARSHIP.

John Neville Hoare, LL.B. London, and John Iorwerth Williams, M.A., LL.B. Wales, having, in the opinion of the Council, shown themselves best acquainted with the Theory, Principles, and Practice of Law, they have awarded to each of them the Scholarship founded by the late Mr. James Scott, of London.

Mr. Hoare served his Articles of Clerkship with Mr. Ernest Roy Bird, M.P., of the firms of Messrs. Wedlake, Letts and Birds, and Messrs. Ernest Bird and Sons, of London, and was awarded the Clement's Inn Prize in March 1930.

Mr. Williams served his Articles of Clerkship with Mr. Elias Louis Jones, of Llanfyllin, and was awarded the Clement's Inn Prize in March, 1930.

THE BRODERIP PRIZE FOR REAL PROPERTY AND CONVEYANCING.

Albert Paulus Livingston, B.A., LL.B. Cantab., having, in the opinion of the Council, shown himself best acquainted with the Law of Real Property and the Practice of Conveyancing, otherwise passed a satisfactory examination and attained Honorary Distinction, and being under 27 years of age, they have awarded to him the Prize, consisting of a Gold Medal, founded by the late Mr. Francis Broderip, of London.

Mr. Livingston served his Articles of Clerkship with Mr. John Alexander Livingston, of the firm of Messrs. Livingston and Pattie, of Newcastle-upon-Tyne, and was awarded Second Class Honours in June, 1930.

THE CLABON PRIZE.

Gerald Francis Littler, having, in the opinion of the Council, shown himself best acquainted with the Principles of Equity and otherwise passed a satisfactory Examination, they have awarded to him the Prize founded by the late Mr. John Moxon Clabon, of London.

Mr. Littler served his Articles of Clerkship with Mr. Oswald Collier Littler, LL.B., of the firm of Messrs. O. Collier Littler and Kilbey, of Manchester, and was awarded the Daniel Reardon Prize in March, 1930.

THE MAURICE NORDON PRIZE.

Edward Dudley Pitman, having, in the opinion of the Council, passed the best Examination in Honours in the subject of Common Law, and attained Honorary Distinction, they have awarded to him the Maurice Nordon Prize, founded by Mr. Charles Louis Nordon, of London.

Mr. Pitman served his Articles of Clerkship with Mr. William John Pitman, of London, and was awarded Second Class Honours in March, 1930.

LOCAL PRIZES.

THE TIMPRON MARTIN PRIZE FOR LIVERPOOL STUDENTS.

Herbert Leo Green, LL.B. Liverpool, who served two-thirds of his period of service in Liverpool, passed the best Examination being not above 27 years of age, and attained Honorary Distinction in the First Class, the Council have awarded to him the Gold Medal founded by the late Mr. Timpron Martin, of Liverpool.

Mr. Green served his Articles of Clerkship with Mr. Albert Edward Berry, of the firm of Messrs. Edwin Berry & Co., of Liverpool, and was awarded Second Class Honours in March, 1930.

THE ATKINSON CONVEYANCING PRIZE FOR LIVERPOOL OR PRESTON STUDENTS.

John Ormerod Cowper, who served two-thirds of his period of service in Preston, having shown himself best acquainted with the Law of Real Property, and the Practice of Conveyancing, obtained at least two-thirds of the total marks obtainable in those subjects, otherwise passed a satisfactory Examination, being not above 27 years of age, and attained Honorary Distinction, the Council have awarded to him the Gold Medal founded by the late Mr. John Atkinson, of Liverpool.

Mr. Cowper served his Articles of Clerkship with Mr. Ralph Knowles Milne, of the firm of Messrs. Edwin Berry & Co., of Liverpool, and was awarded Second Class Honours in March, 1930.

THE RUPERT BREMNER MEDAL FOR LIVERPOOL STUDENTS.

Thomas Alfred McLoughlin, LL.M. Liverpool, who served two-thirds of his period of service in Liverpool, having shown himself best acquainted with the Principles of Common Law, obtained at least two-thirds of the total marks obtainable in that subject, otherwise passed a satisfactory Examination, being not above 27 years of age, and attained Honorary Distinction, the Council have awarded to him the Prize, consisting of a Gold Medal, founded in memory of the late Mr. Rupert Bremner, of Liverpool.

Mr. McLoughlin served his Articles of Clerkship with Mr. Ernest Gerard Finch, of Liverpool, and was awarded Third Class Honours in November, 1930.

The Rupert Bremner Medal was not awarded in the year 1927. Under the regulations if no award is made in any year, the medal provided for that year shall be reserved and given in any subsequent year to the candidate who being second in order of merit shall have fulfilled the conditions.

The following candidate qualified under the foregoing provision for, and the Council have awarded to him, the 1927 Medal: Herbert Leo Green, LL.B. Liverpool, who served his Articles of Clerkship as before stated.

THE BIRMINGHAM LAW SOCIETY'S GOLD MEDAL.*

William Henry Tilley, LL.B. Birmingham, having, from among the candidates who have served two-thirds of their term of service with a member of the Birmingham Law Society, been placed First in order of merit, attained Honorary Distinction and awarded a Prize, the Council have awarded to him the Gold Medal of the Birmingham Law Society.

Mr. Tilley served his Articles of Clerkship with Mr. William Charles Camm, of the firm of Messrs. Slater & Camm, of Dudley, and was awarded the Daniel Reardon Prize in November, 1930.

* The award of this Medal carries with it the Horton Prize.

THE BIRMINGHAM LAW SOCIETY'S BRONZE MEDAL.

Frank Noel Harmshaw, having, from among the candidates who have served two-thirds of their term of service with a member of the Birmingham Law Society, and who have not taken the Society's Gold Medal, attained Honorary Distinction in the Second Class, the Council have awarded to him the Bronze Medal of the Birmingham Law Society.

Mr. Harmshaw served his Articles of Clerkship with Mr. Thomas Foley Bache (deceased); and Mr. Francis Eric Leonard Bache, both of the firm of Messrs. Wm. Bache and Sons, of West Bromwich, and was awarded Second Class Honours in November, 1930.

THE STEPHEN HEELIS PRIZE FOR MANCHESTER AND SALFORD STUDENTS.

Gerald Francis Littler, having from among the candidates who have served two-thirds of their period of service in Manchester, and having passed the best Examination and attained Honorary Distinction in the First Class, and being under the age of 26 years, the Council have awarded to him the Gold Medal founded in memory of the late Mr. Stephen Heelis, of Manchester.

Mr. Littler served his Articles of Clerkship as before stated.

THE NEWCASTLE-UPON-TYNE PRIZE.

Albert Paulus Livingston, B.A., LL.B. Cantab., who served two-thirds of his period of service in the County of Northumberland, having passed the best Examination during the year and attained Honorary Distinction in the Second Class, the Council have awarded to him the Prize founded by Mr. Robert Brown, of Newcastle-upon-Tyne.

Mr. Livingston served his Articles of Clerkship as before stated.

THE WAKEFIELD AND BRADFORD PRIZE.

Antony Woods Hutton, who served two-thirds of his period of service in Bradford, and whose Principal was at the date of the Articles a member of The Law Society, having passed the best Examination during the year and attained Honorary Distinction in the Third Class, the Council have awarded to him the Prize founded by the late Mr. Samuel Smith Seal, of London.

Mr. Hutton served his Articles of Clerkship with Mr. Alfred Gaukroger, of Bradford, and was awarded Third Class Honours in November, 1930.

THE SIR GEORGE FOWLER PRIZE.

Donald Percival Heath, who served two-thirds of his period of service in the County of Devon, and whose Principal was at the date of his Articles a member of The Law Society, having passed the best Examination during the year and attained Honorary Distinction in the Second Class, the Council have awarded to him the Prize founded by Sir George Fowler, of London.

Mr. Heath served his Articles of Clerkship with Mr. Robert John Fittall, of Plymouth, and was awarded Second Class Honours in March, 1930.

THE MELLERSH PRIZE.

John Beaumont Buckwell and Norman Boyd Lintott, having, from among the candidates who have been Articled in the Counties of Surrey and Sussex or who are the sons of Solicitors who have resided and practised in either of those counties, shown themselves best acquainted with the Law of Real Property and the Practice of Conveyancing, the Council have awarded to each of them the Prize founded by the late Mr. Robert Edmund Mellersh, of Godalming.

Mr. Buckwell served his Articles of Clerkship with Mr. John Charles Buckwell (deceased); Mr. Charles Webb, of the firm of Messrs. Charles Webb & Son; and Mr. Guy Charles Wallington, of the firm of Messrs. Buckwell & Co., all of Brighton, and was awarded Third Class Honours in June, 1930.

Mr. Lintott served his Articles of Clerkship with Mr. Frank Fraser Haddock, of the firm of Messrs. Coole & Haddock, of Horsham, and was awarded Third Class Honours in March, 1930.

American Assets in Deceased Estates

Solicitors, Executors and Trustees may obtain necessary forms and full information regarding requirements on applying to:

Guaranty Executor and Trustee Company Limited

Subsidiary of the Guaranty Trust Company of New York

32 Lombard Street E.C.3

THE CITY OF LONDON SOLICITORS' COMPANY'S PRIZE.

Charles Nicholas Bushell, B.A. Oxon, who served his Articles of Clerkship with a solicitor practising within a radius of three-quarters of a mile from the Bank of England, and being under 27 years of age, the Council certify that his answers to the questions on Equity and Common Law and Bankruptcy at the Final Examination are the highest in merit.

Mr. Bushell served his Articles of Clerkship with Mr. Henry North Lewis, of the firm of Messrs. Middleton, Lewis and Clarke, of London; and passed the Final Examination held in November, 1930.

The Law Society's School of Law.

The Spring Term will open on 5th January. Lectures will commence on 7th January. Copies of the detailed time-table can be obtained on application to the Principal's Secretary.

The Principal will be in his room to advise students on their work, on Monday, 5th January, for Intermediate Students, and Tuesday, 6th January, for Final and Degree Students (10.30 a.m. to 12.30 p.m. and 2 p.m. to 5 p.m.).

The subjects to be dealt with during the term will be, for Intermediate Students—(i) Public Law; (ii) Status and Personal Property; (iii) Criminal Law and Procedure and Civil Procedure; (iv) Elementary Equity; and (v) Accounts and Book-keeping. The subjects for Final Students will be—(i) Conveyancing and Probate; (ii) Private International Law, Criminal Law, and Divorce; and (iii) Practice in the K.B.D. There will also be courses on—(i) Contract; (ii) Conveyancing; and (iii) History of English Law, for Honours and Degree Students; and (i) Constitutional Law; and (ii) Roman Law, for Intermediate Degree Students. The courses on—(i) Status and Personal Property, and (ii) Criminal Law and Procedure and Civil Procedure will be taken in the morning (Status and Personal Property, 11 a.m. to 1 p.m.; Criminal Law and Procedure and Civil Procedure, 10 a.m. to 12 noon); and in the afternoon (4 p.m. to 6 p.m.). Students must notify the Principal's Secretary before 6th January, if they wish to attend the afternoon in preference to the morning lectures and classes.

Students can obtain copies of the regulations governing the three studentships of £40 a year each, offered by the Council for award in July next, on application to the Principal's Secretary.

Legal Notes and News.

Honours and Appointments.

Mr. C. A. JAMES, solicitor, Warwick, has been appointed Assistant Town Clerk of Walthamstow.

Mr. WILLIAM CONSIDINE, solicitor, a member of the firm of W. & H. Considine, W.S., Edinburgh, has, says *The Scotsman*, been appointed by the Pope a Chamberlain of Honour of the Sword and Cape, and thus becomes a member of the Papal household in Rome, "*Famiglia Pontifica.*"

Mr. ARTHUR K. A. BECKETT TERRELL, barrister-at-law, has been appointed a puisne Judge of the Supreme Court of the Straits Settlements.

Mr. WALTER IRELAND, solicitor, has been appointed Assistant Solicitor in the office of Mr. E. B. Sharpley, O.B.E., Town Clerk of Stoke-on-Trent.

Mr. W. HUGH JONES, K.C., of the South Wales Circuit, has been appointed Stipendiary Magistrate of Cardiff, in succession to the late Mr. St. John Francis-Williams.

The Home Secretary has appointed Mr. CECIL WHITELEY, K.C., chairman of the Surrey Quarter Sessions to succeed Sir Robert Wallace, K.C., as Chairman of the County of London Sessions, to take effect from the 17th January.

Professional Announcements.

(2s. per line.)

Notice is hereby given that the partnership heretofore subsisting between GEORGE BRACE COLT, JOHN OSCAR INCE, EDWARD GAWNE ROSCOE, ERNEST EDWARD WILSON, NEVILLE BRACE COLT and WILLIAM GREY GLOVER, practising as solicitors under the title of Ince, Colt, Ince & Roscoe, at 10 and 11, Lime-street, London, E.C.3, will be dissolved as from the 31st day of December, 1930, owing to effluxion of time. Mr. George Brace Colt (who has been a partner for over forty-seven years) is retiring from active practise. Messrs. John Oscar Ince, Edward Gawne Roscoe, Ernest Edward Wilson and William Grey Glover will continue to practise in partnership at 10 and 11, Lime-street aforesaid under the title of Ince & Co. Mr. Neville Brace Colt will continue to practise at 10 and 11 Lime-street aforesaid under the title of Neville Colt & Co.

Dated this 23rd day of December, 1930.

As from the 31st December, 1930, ROBERT C. NESBITT and FREDERICK W. BROWN are ceasing to practise and are retiring from the firm of "Markby Stewart & Wadesons." The remaining partners, Lancelot C. Bullock and G. Hudson Lyall are continuing to practise under the style of "Markby Stewart and Wadesons," at 5, Bishopsgate, E.C.2, as heretofore, in conjunction with ROBERT MALLESON NESBITT, the son of Robert C. Nesbitt, who has been admitted into partnership.

Messrs. COWARD, CHANCE & Co., solicitors, 30, Mincing-lane, E.C.3, announce that Mr. F. H. Chance, who has been with the firm for nearly forty years, will retire as from the 31st December, 1930, and that the practice will be continued by the remaining partners and Mr. J. C. P. BRUNYATE, who has been associated with the firm for several years.

THE INSTITUTE OF TAXATION.

The first meeting of the Council of the Institute of Taxation was held on Friday, the 5th December, 1930, when Mr. Ronald Staples was voted to the chair.

The first members of the Council are—Mr. Ronald Staples, F.S.S., Mr. Roger N. Carter, M.Comm., F.C.A., Mr. Roy E. Borneman, B.A., Barrister-at-Law, Mr. C. Gordon Howard, B.A., Mr. C. W. Legge, F.S.A.A., Mr. C. A. Newport, F.C.R.A., Mr. H. A. Silverman, B.A., Mr. C. W. Smee, B.A., A.L.A.A., Mr. Stanley A. Spofforth, A.S.A.A., F.S.S., Dr. A. V. Tranter, Ph.D., B.Sc. (Econ.), and Mr. G. B. Burr, F.C.I.S. (Secretary).

The objects and terms of membership are such that the highly specialised service in a subject so highly technical will be available to accountants, auditors, solicitors, etc. In addition to admitting to membership those persons who specialise in the subject we are informed that the Institute will also act as a centre for the collection and dissemination of information relating to taxation.

Further particulars may be obtained from the Secretary of the Institute, at 11 Pancras Lane, London, E.C.4.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phones: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May 1930) 3%. Next London Stock Exchange Settlement Thursday, 8th January, 1931.

	Middle Price 30 Dec. 1930.	Flat Interest Yield.			Approximate Yield with redemption		
English Government Securities.		£	s.	d.	£	s.	d.
Consols 4% 1957 or after	91½	4	7	5	—		
Consols 2½%	57½	4	6	11	—		
War Loan 5% 1929-47	103	4	17	1	—		
War Loan 4½% 1925-45	101	4	9	1	4	8	0
War Loan 4% (Tax free) 1929-42	99⅞xd	4	0	2	4	0	1
Funding 4% Loan 1960-90	94⅛	4	4	8	4	5	0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	96½	4	2	11	4	4	0
Conversion 5% Loan 1944-64	106	4	14	4	4	13	0
Conversion 4½% Loan 1961	101½	4	8	8	4	7	0
Conversion 3½% Loan 1961	81⅞	4	6	8	—		
Local Loans 3% Stock 1912 or after	67½	4	8	11	—		
Bank Stock	267½	4	9	9	—		
India 4½% 1950-55	87	5	3	6	5	8	9
India 3½%	63	5	11	1	—		
India 3%	54	5	11	1	—		
Sudan 4½% 1939-73	100	4	10	0	4	10	0
Sudan 4% 1974	91	4	7	11	4	9	4
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	84½	3	11	0	4	1	0
Colonial Securities.							
Canada 3% 1938	91	3	5	11	4	8	6
Cape of Good Hope 4% 1916-36	97	4	2	6	4	11	6
Cape of Good Hope 3½% 1929-49	85	4	2	4	4	14	6
Ceylon 5% 1960-70	104	4	16	2	4	15	6
Commonwealth of Australia 5% 1945-75	80½	6	4	3	6	7	0
Gold Coast 4½% 1956	98	4	11	10	4	12	6
Jamaica 4½% 1941-71	98	4	11	10	4	12	0
Natal 4% 1937	97	4	2	6	4	11	9
New South Wales 4½% 1935-1945	68½	6	11	5	8	2	6
New South Wales 5% 1945-65	76½	6	10	9	6	15	3
New Zealand 4½% 1945	98	4	11	5	4	14	0
New Zealand 5% 1946	102	4	18	0	4	16	6
Nigeria 5% 1950-60	105	4	15	3	4	13	9
Queensland 5% 1940-60	76½	6	10	9	6	17	0
South Africa 5% 1945-75	102	4	18	0	4	17	6
South Australia 5% 1945-75	78½	6	7	5	6	9	9
Tasmania 5% 1945-75	84½	5	18	4	6	0	0
Victoria 5% 1945-75	78½	6	7	5	6	9	9
West Australia 5% 1945-75	80½	6	4	3	6	6	0
Corporation Stocks.							
Birmingham 3% on or after 1947 or at option of Corporation	66	4	10	11	—		
Birmingham 5% 1946-56	105	4	15	3	4	13	6
Cardiff 5% 1945-65	102	4	18	0	4	17	6
Croydon 3% 1940-60	75	4	2	2	4	11	0
Hastings 5% 1947-67	105	4	15	3	4	14	3
Hull 3½% 1925-55	83	4	4	4	4	13	6
Liverpool 3½% Redeemable by agreement with holders or by purchase	78	4	13	4	—		
London City 2½% Consolidated Stock after 1920 at option of Corporation	57	4	7	9	—		
London City 3% Consolidated Stock after 1920 at option of Corporation	68	4	8	3	—		
Metropolitan Water Board 3% "A" 1963-2003	69	4	6	11	—		
Metropolitan Water Board 3% "B" 1934-2003	70	4	5	9	—		
Middlesex C.C. 3½% 1927-47	87	4	0	6	4	12	6
Newcastle 3½% Irredeemable	74xd	4	14	7	—		
Nottingham 3% Irredeemable	66	4	10	11	—		
Stockton 5% 1946-66	104	4	16	2	4	15	3
Wolverhampton 5% 1946-56	104	4	16	2	4	14	6
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	85	4	14	2	—		
Gt. Western Railway 5% Rent Charge	102	4	18	0	—		
Gt. Western Rly. 5% Preference	95½	5	4	9	—		
L. & N.E. Rly. 4% Debenture	76½	5	4	7	—		
L. & N.E. Rly. 4% 1st Guaranteed	74½	5	7	5	—		
L. & N.E. Rly. 4% 1st Preference	55½	7	4	2	—		
L. Mid. & Scot. Rly. 4% Debenture	80½	4	19	5	—		
L. Mid. & Scot. Rly. 4% Guaranteed	78	5	2	7	—		
L. Mid. & Scot. Rly. 4% Preference	62	6	9	1	—		
Southern Railway 4% Debenture	83	4	16	5	—		
Southern Railway 5% Guaranteed	101	4	19	0	—		
Southern Railway 5% Preference	92	5	8	8	—		

A Message

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MARY BRIGGS, otherwise MARY BARWELL BRIGGS, late of Malvern Links, widow.—Information is desired as to the whereabouts of a Post-nuptial Settlement dated 12th day of December, 1872, made between William Barwell Briggs of the first part, Mary Briggs of the second part, and William Barwell Briggs and Falkland Samuel Thornton of the third part, or any copy or draft thereof.—Johnson & Co., Solicitors, 36, Waterloo-street, Birmingham.

SOLICITOR enquiring some years ago for a Mr. WILLIAM MARS please write to C. DEAVIN, 71, Rotherhithe New-road, S.E.16.

RE Mrs. QUEENIE J. E. REEVES, deceased. —Will the Solicitor who acted for, or prepared a Will for Mrs. REEVES, late of 11, Hornley Place, Paddington, W.9, and who died June 24th, 1930, please communicate with Box 566, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WILL Miss FLORENCE AMELIA LISTER, late of Blackpool, Lancashire, please communicate with Messrs. Smith and Smith, Solicitors, of Elizabeth-street, Burnley, when she will learn something to her advantage?

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